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REPORT

OF THE

Committee on Prevention of Corruption

सत्यमेव जयते

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

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ERRATA

Page 14, line 1—

For the existing line, *substitute*—

3.1. It is difficult to make a precise estimate of the extent of cor-

Page 37, last item—

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SECTION 1

INTRODUCTION

1.1. In June 1962 during the debate on the Demands for the Ministry of Home Affairs, many Members of Parliament referred to the growing menace of corruption in administration. Replying to the debate on 6th June 1962, the Hon'ble Minister for Home Affairs, Shri Lal Bahadur Shastri said:

> "I feel that this matter should not be entirely left for consideration in the hands of officials. It is desirable that there should be exchange of views between them and public men of experience. Perhaps, Hon. members might have read in the papers that I have suggested that a formal Committee should consider the important aspects of the evils of corruption. But I do not want to make it a formal Committee as such and wait for its report. Since we know most of the problems, the real point is to take remedial action. I, therefore, propose to request some members of Parliament and, if possible, other public men to sit with our own officers in order to review the problem of corruption and make suggestions."

.2. In pursuance of this announcement a Committee consis ng of he following members was appointed:—

1. Shri K. Santhanam, M.P. . — *Chairman.*

2. Shri Santosh Kumar Basu, M.P.
3. Shri Tika Ram Paliwal, M.P.
4. Shri R. K. Khadilkar, M.P.
5. Shri Nath Pai, M.P.
6. Shri Shambu Nath Chaturvedi, M.P.
7. Shri L. P. Singh, Director, Administrative Vigilance Division.
8. Shri D. P. Kohli, Inspector General, Special Police Establishment.

} *Members.*

Joint Director, Administrative Vigilance Division (Shri T. C. A. Ramanujachari). — *Secretary.*

Our terms of reference are:

(i) To examine the organisation, set up, functions and responsibilities of the Vigilance Units in the Ministries and Departments of the Government of India and to suggest measures to make them more effective.

(ii) To examine the organisation, strength, procedures and methods of work of the Special Police Establishment and the difficulties experienced by it, and to suggest measures to further improve its working.

(iii) To consider and suggest steps to be taken to emphasise the responsibilities of each Department for checking corruption.

(iv) To suggest changes in law which would ensure speedy trial of cases of bribery, corruption and criminal misconduct, and make the law otherwise more effective.

(v) To examine the rules relating to disciplinary proceedings and to consider what changes are necessary in order to expedite these proceedings and to make them more effective.

(vi) To suggest measures calculated to produce a social climate both amongst public servants and in the general public in which bribery and corruption may not flourish.

(vii) To examine the Government Servants' Conduct Rules and to recommend changes necessary for ensuring maintenance of absolute integrity in the public services.

(viii) To suggest steps for securing public support for anti-corruption measures.

(ix) To consider special measures that may be necessary in corporate public undertakings to secure honesty and integrity amongst their employees.

1.3. Though the terms of reference were as stated above, the Home Minister made it clear that we are to review the existing instruments for checking corruption in the Central Services and to advise practical steps that should be taken to make anti-corruption measures more effective and that it was not intended to restrict the Committee's scope of work. He further made it clear that the points stated as the terms of reference were only intended to indicate the more important matters which we might consider. The Home Minister also suggested that the Committee should forward their interim reports as soon as examination of any aspect of the problem was completed.

1.4. An office room in the South Block was allotted to the Committee. The Administrative Vigilance Division was to prepare background papers and perform the secretarial work.

1.5. A large number of background papers were prepared by the Administrative Vigilance Division and the Delhi Special Police Establishment and circulated to the members of the Committee. These included brief studies of the system of 'Ombudsman' in the Scandinavian Countries, the office of the Procurator in the Communist Countries and the system prevalent in other countries for dealing with complaints of citizens against administration and their redress. Detailed briefs were also prepared on the modes, extent and scope for corruption in the more important Ministries/Departments and other ancilliary matters. At the request of the Chairman, the Indian Law Institute was kind enough to prepare a note on the law relating to corruption in the countries like U.K., U.S.A., Pakistan, Canada, Burma, Ghana and France.

1.6. We held our first meeting on September 10, 1962 and till the completion of the report held in all 87 sittings. We also visited Bangalore, Calcutta and Bombay to study the problems of corruption in relation to public undertakings, import/export controls, income-tax, excise and customs, and in all these places met representatives of commercial and other institutions, and prominent individuals.

1.7. We examined a large number of witnesses including two Central Cabinet Ministers, two Chief Ministers, two State Ministers, some Secretaries to the Government of India, members of the Central Board of Revenue, Commissioners of Income-tax, General Managers of Zonal Railways, and the senior officers of the Vigilance Departments and of the Delhi Special Police Establishment. We also had the benefit of the opinion of others including journalists, public men and retired administrators. A list of witnesses and associations who met us is given in Appendix I.

1.8. Soon after the Committee was set up, the Chinese aggression took place and a state of national emergency was declared by the President. We examined the provisions of the Defence of India Bill, and made certain recommendations from the point of view of maintenance of integrity in the public services. These recommendations are given in Annexure I.

1.9. At this time, the Government brought forward some amendments to the Constitution which included an amendment to Article 311 relating to services under Government. We gave an interim report on this matter which is given in Annexure II.

1.10. We further made interim reports on the setting up of a Central Vigilance Commission, on modification of the Government

Servants' Conduct Rules and changes in the rules relating to disciplinary proceedings, and lastly a report on the question of Government servants accepting commercial employment after retirement. All these reports will be dealt with in the appropriate Sections of this report.

1.11. We have not been able to examine exhaustively all the problems concerning the integrity of Government servants and the rooting out of corruption from public life. Four of the members are from the Lok Sabha and two from the Rajya Sabha, and they had to attend to their work in Parliament and its committees. The two official members also functioned as members of the Committee in addition to their normal duties.

1.12. As already stated, we had no special staff of our own. Shri T. C. A. Ramanujachari had to do the entire secretarial work of the Committee in addition to his normal duties as Deputy Secretary in the Ministry of Home Affairs. We are pleased to record our deep appreciation of his strenuous and able work. We also wish to place on record our appreciation of the staff of the Administrative Vigilance Division of the Ministry of Home Affairs for taking upon themselves cheerfully the additional work of the Committee.

SECTION 2

NATURE OF THE PROBLEM

Definition

2.1. The problem of corruption is complex having roots and ramifications in society as a whole. In its widest connotation, corruption includes improper or selfish exercise of power and influence attached to a public office or to the special position one occupies in public life. In this sense, the problem would have to be viewed in relation to the entire system of moral values and socio-economic structure of society which we could not undertake. We are primarily concerned with the investigation of the problem in so far as it relates to the Central Government and its employees; but even for this limited purpose, we shall have to consider it in a somewhat wider setting.

2.2. It is difficult to define precisely the word 'corruption'. Section 161, Indian Penal Code, states the most common form of corruption as follows:—

> "Whoever, being or expecting to be a public servant, accepts, or obtains, or agrees to accept, or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or dis-service to any person, with the Central or any State Government or Parliament or the Legislature of any State or with any public servant as such, ** ** **"

Section 5(1) of the Prevention of Corruption Act, 1947, defines criminal misconduct of a public servant in the discharge of his duty.

Section 123 of the Representation of the People Act, 1951 defines corrupt practices in relation to elections.

While it is true that the securing of some kind of pecuniary or other material advantage directly or indirectly for oneself or family, relative or friends, constitutes the most common form of corruption, other forms of the evil are coming into existence in the ever increasing complexities of modern society.

A Perspective

2.3. Corruption in one form or another has always existed. Kautilya in his *Arthasastra* refers to the various forms of corruption prevalent in his times. Nor is corruption peculiar to India. In his book on "Ethics of Government" Paul H. Douglas, Senator from Illinois, points out that corruption was rife in British public life till a hundred years ago and in U.S.A. till the beginning of this century. Nor can it be claimed that it has been altogether eliminated anywhere.

2.4. In primitive and medieval societies the scope of public authority was minimum. Many of the matters that were looked after by the community have now become a function of the State. The few authorities which existed for the collection of taxes, administration of justice or other purposes did not act according to any definite written laws or rules, but largely at their discretion subject to good conscience and equity and directives from the higher authorities. So long as the officials were loyal to the existing regime and did not resort to oppression and forcible expropriation, they were free to do as they liked. If through tactful methods, they amassed wealth for themselves or advanced their other material interests they were praised rather than censured. Often offices were hereditary and perquisites which would today amount to bribery were congrowth of the currently accepted standards of integrity.

The modern conception of integrity of public servants in the sense that they should not use their official position to obtain any kind of financial or other advantage for themselves, their families or friends is due to the development of the rule of law and the evolution of a large, permanent public service. Levy of taxation by law, parliamentary control of expenditure, and the regulation of conduct of public servants by rules, the breach of which would subject them to penalties including dismissal and prosecution in courts, contributed to the present notion of integrity of public servants. The fact that fair, honest and just principles are adopted and declared in matters like recruitment, promotions, terminal benefits and other conditions of service of public services, has further encouraged the growth of the currently accepted standards of integrity.

2.5. Till about the beginning of the Second World War corruption was prevalent in considerable measure amongst revenue, police, excise and Public Works Department officials particularly of the lower grades and the higher ranks were comparatively free from this evil. The smaller compass of State activities, the "great depression" and lack of fluid resources set limits to the opportunities and capacity to corrupt or be corrupted. The immense war efforts during 1939 to 1945 which involved an annual expenditure of hundreds of crores

of rupees over all kinds of war supplies and contracts created unprecedented opportunities for acquisition of wealth by doubtful means. The war time controls and scarcities provided ample opportunities for bribery, corruption, favouritism, etc. The then Government subordinated all other considerations to that of making the war effort a success. Propriety of means was no consideration if it impeded the war effort. It would not be far wrong to say that the high water-mark of corruption was reached in India as perhaps in other countries also, during the period of the Second World War.

2.6. After the peaceful transfer of power, the new popular Governments took office in an atmosphere surcharged with patriotism and high ideals. In spite of the fact that the new Governments were faced with grave problems that arose after the partition of the country and other urgent tasks of reconstruction and had to run the administration after having lost the services of many senior and experienced officers, the new Governments did exhibit commendable energy in dealing with the problem of corruption. We mention here only the steps taken by the Central Government. The Delhi Special Police Establishment was put on a permanent footing by the Delhi Special Police Establishment Act, 1946. The Prevention of Corruption Act became law on 11th March, 1947. The Bakshi Tek Chand Committee was set up in 1949 to review the working of the Prevention of Corruption Act, 1947, to make recommendations with regard to any improvement that might be considered necessary in the laws as well as in regard to the machinery for enforcing them, to assess the extent of success achieved by the Special Police Establishment in combating corruption and to make recommendation regarding continuance, strengthening, etc. of the Special Police Establishment. Some Ministers in Rajasthan and Vindhya Pradesh were prosecuted in 1949-50. There was no hesitation to make over inquiries into allegations against Ministers to the Special Police Establishment. The Railway Corruption Inquiry Committee under the chairmanship of Acharya Kripalani was appointed in October, 1953. The Administrative Vigilance Division was set up in August, 1955 and the vigilance units in the Ministries/Departments came into existence. The Vivian Bose Commission was appointed in December 1956. Some leading industrialists of the country were prosecuted in the decade between 1950—1960. During this decade the number of cases investigated by the Special Police Establishment alone increased almost two-fold.

Yet, various factors have operated to nullify in some measure the anti-corruption drive. The sudden extension of the economic activities of the Government with a large armoury of regulations, controls, licences and permits provided new and large opportunities. The quest for political power at different levels made successful

achievement of the objective more important than the means adopted. Complaints against the highly placed in public life were not dealt with in the manner that they should have been dealt with if public confidence had to be maintained. Weakness in this respect created cynicism and the growth of the belief that while Governments were against corruption they were not against corrupt individuals, if such individuals had the requisite amount of power, influence and protection.

Causes

2.7. When India became independent, the country was mainly an agricultural hinterland of the other highly developed industrial countries, with a weak industrial base, low incomes, low consumptions, gross unemployment and under-employment, low capital formation, lack of fruitful channels of investment and all the other indices of backwardness. The climate for integrity had been rendered unhealthy by the war time controls and scarcities, the post-war flush of money, and the consequent inflation. After Independence, a conscious and deliberate effort is being made to change these conditions by undertaking reforms and reconstruction in all directions simultaneously, the emphasis, however, being on the *economic sector. The attempt is to accelerate the pace of development* in such a manner as to make good the loss of time, the loss having been spread over two centuries. The direction of change is modernisation. A society that goes in for a purposively initiated process of a fast rate of change has to pay a social price, the price being higher where the pace of change excludes the possibility of leisurely adjustment which is possible only in societies where change is gradual. Thus, there has come about a certain amount of weakening of the old system of values without its being replaced by an effective system of new values. The relative fixity of ways and aspirations of former times and the operation of a moral code tending towards austerity, frugality and simplicity of life, profoundly influenced the mechanism of social control and social responses. In the emerging Indian society with its emphasis on purposively initiated process of urbanisation, alongside of the weakening of the social mores of the simpler society, signs are visible of materialism, growing impersonalism, importance of status resulting from possession of money and economic power, group loyalties, intensification of parochial affinities, unwillingness or inability to deal with deviations from the highest standards of political, economic and social ethics, profession of faith in the rule of law and disregard thereof where adherence thereto is not convenient.

2.8. The Government of the country assumed the new responsibilities at a time when the administrative machinery had been considerably weakened by (a) war-time neglect, and (b) the departure

of a large number of experienced officers, which necessitated rapid promotions including those of some unproven men and recruitment of a large number of officers in various grades which inevitably caused a dilution of experience and ability. The rapid expansion of Governmental activities in new fields involving expenditure of the order of 1,000 crores of rupees a year afforded to the unscrupulous elements in the public service and public life unprecedented opportunities for acquiring wealth by dubious methods. To this must be added the unfortunate decline of the real incomes of various sections of the community, and particularly that of the salaried classes, a large part of which is found in Government employment. Though efforts have been made by the two Pay Commissions to revise the pay scales, it has to be conceded that some classes of Government servants have had to face an appreciable fall in the standard of living. Though this cannot be pleaded in extenuation of the fall in the standard of integrity, the fact remains that economic necessity has, at least in some cases, encouraged those who had the opportunities to succumb to temptations.

2.9. The assumption of new responsibilities by the Government has resulted in the multiplication of the administrative processes. As the Law Commission pointed out in its fourteenth report there is a vast field of administrative action in which administrative authority may act out-side the strict scope of law and propriety without the injured citizen being in a position to obtain effective redress. Administrative power and discretion are vested at different levels of the executive, all the members of which are not endowed with the same level of understanding and strength of character. Where there is power and discretion, there is always the possibility of abuse, more so when the power and discretion have to be exercised in the context of scarcity and controls and pressure to spend public money. The absence of a machinery for appeals other than inside the hierarchy and of a machinery for redress of grievances contributed to the growth of an impression of arbitrariness on the part of the executive. Consequently, there has been a phenomenal increase in the number of peddlers of influence.

2.10. It is believed that the procedures and practices in the working of Government offices are cumbersome and dilatory. The anxiety to avoid delay has encouraged the growth of dishonest practices like the system of speed money. 'Speed money' is reported to have become a fairly common type of corrupt practice particularly in matters relating to grant of licences, permits, etc. Generally the bribe giver does not wish, in these cases, to get anything done unlawfully, but wants to speed up the process of the movement of files and communications relating to decisions. Certain sections of the staff concerned are reported to have got into the habit of not doing any-

thing in the matter till they are suitably persuaded. It was stated by a Secretary that even after an order had been passed the fact of the passing of such order is communicated to the person concerned, and the order itself is kept back till the unfortunate applicant has paid appropriate gratification to the subordinate concerned. Besides being a most objectionable corrupt practice, this custom of speed money has become one of the most serious causes of delay and inefficiency.

2.11. There is a general impression that it is difficult to get things done without resorting to corruption. Scope for corruption is greater and the incentive to corrupt stronger at those points of the organisation where substantive decisions are taken in matters like assessment and collection of taxes, determination of eligibility for obtaining licences, grant of licences, ensuring fair utilisation of licences and goods obtained thereunder, giving of contracts, approval of works and acceptance of supplies. We were told by a large number of witnesses that in all contracts of construction, purchases, sales, and other regular business on behalf of the Government, a regular percentage is paid by the parties to the transaction, and this is shared in agreed proportions among the various officials concerned. We were told that in the constructions of the Public Works Department, seven to eleven per cent was usually paid in this manner and this was shared by persons of the rank of Executive Engineer and below down to the Mistry, and occasionally even the Superintending Engineer might have a share. In the Railways, besides the above, similar practice in connection with allotment of wagons and booking of parcels particularly perishables, is said to be in vogue. Wherever purchases have to be made, such percentage is paid for acceptance of inferior quality of goods. In all cases, failure to pay the percentage results invariably in difficulty and delay in getting the bills paid. In the higher ranks, differences and disputes about specifications, use of inferior quality of material, and other technical issues are utilised for the purpose. It is not always the Government servant who takes the initiative in the matter. Frequently enough it is the dishonest contractors and suppliers who, having obtained the contract by under-cutting, want to deliver inferior goods or get approval for sub-standard work and for this purpose, are prepared to spend a portion of their ill-earned profit.

2.12. In addition to the various circumstances mentioned above, we are of the opinion that two of the major contributory factors for the growth of corruption are, firstly, the partially acknowledged unwillingness to deal drastically with corrupt and inefficient public servants and, secondly, the protection given to the Services in India, which is greater than that available in the more advanced countries. It was distressing to hear heads of departments confess that, even

where they were morally convinced that one of the officials working under them was corrupt, they were unable to do anything because of the difficulties in obtaining formal proof, finding or conviction. They could not even make an adverse entry in the confidential roll without their being required to justify such an entry with proof when it was challenged after its communication to the Government servant concerned. Article 311 of the Constitution as interpreted by our courts has made it very difficult to deal effectively with corrupt public servants. When the question of amendment of article 311 came up before Parliament the issue of corruption was altogether ignored and overwhelming stress was laid upon protection of the individual Government servant. This is an important issue which deserves to be urgently reconsidered by Parliament.

2.13. The advance of technological and scientific development is contributing to the emergence of 'mass society', with a large rank and file and a small controlling elite, encouraging the growth of monopolies, the rise of a managerial class and intricate institutional mechanisms. Strict adherence to a high standard of ethical behaviour is necessary for the even and honest functioning of the new social, political and economic processes. The inability of all sections of Society to appreciate in full this need results in the emergence and growth of white-collar and economic crimes, renders enforcement of the laws, themselves not sufficiently deterrent, more difficult. This type of crime is more dangerous not only because the financial stakes are higher but also because they cause irreparable damage to public morals. Tax-evasion and avoidance, share-pusing, malpractices in the share market and administration of companies, monopolistic controls, usury, under-invoicing or over-invoicing, hoarding, profiteering, sub-standard performance of contracts of constructions and supply, evasion of economic laws, bribery and corruption, election offences and malpractices are some examples of white-collar crime.

2.14. Corruption can exist only if there is some one willing to corrupt and capable of corrupting. We regret to say that both this willingness and capacity to corrupt is found in a large measure in the industrial and commercial classes. The ranks of these classes have been swelled by the speculators and adventurers of the war period. To these, corruption is not only an easy method to secure large unearned profits but also the necessary means to enable them to be in a position to pursue their vocations or retain their position among their own competitors. It is these persons who indulge in exasion and avoidance of taxes, accumulate large amounts of unaccounted money by various methods such as obtaining licenses in the names of bogus firms and individuals, trafficking in licenses, suppressing profits by manipulation of accounts to avoid taxes and other legitimate claims on profits, accepting money for transactions

put through without accounting for it in bills and accounts (on-money) and under-valuation of transactions in immovable property. It is they who have control over large funds and are in a position to spend considerable sums of money in entertainment. It is they who maintain an army of liaison men and contact men, some of whom live, spend and entertain ostentatiously. We are unable to believe that so much money is being spent only for the purpose of getting things done quickly. It is said that, as a large majority of the high officials are incorruptible and are likely to react strongly against any direct attempt to subvert their integrity, the liaison and contact men make a careful study of the character, tastes and weaknesses of officials with whom they may have to deal and that these weaknesses are, then, exploited. Contractors and suppliers who have perfected the art of getting business by under-cutting, of making good the loss by passing off sub-standard works and goods generally spare no pains or expenditure in creating a favourable atmosphere. Possession of large amounts of unaccounted money by various persons including those belonging to the industrial and commercial classes is a major impediment in the purification of public life. If anti-corruption activities are to be successful, it must be recognised that it is as important to fight these unscrupulous agencies of corruption as to eliminate corruption in the public services. In fact they go together.

We have to point out, with regret, that while a number of Trade Associations and State Chambers of Commerce readily accepted our invitation to help us with their views and advice, the Federation of Indian Chambers of Commerce which could have given powerful support to the fight against corruption would not even accept our invitation to meet us.

2.15. The tendency to subvert integrity in the public services instead of being isolated and aberrative is growing into an organised, well-planned racket. We recognise that while considerable success had been achieved in putting anti-corruption measures on a firm footing there is much that remains to be done. It is a matter of profound concern that in the past there has been a certain amount of complacency in dealing with the situation.

2.16. It was represented to us that corruption has increased to such an extent that people have started losing faith in the integrity of public administration. We heard from all sides that corruption has, in recent years, spread even to those levels of administration from which it was conspicuously absent in the past. We wish we could confidently and without reservation assert that at the political level, Ministers, Legislators, party officials were free from this malady. The general impressions are unfair and exaggerated. But the very fact that such impressions are there causes damage to the social

fabric. That such impressions should have come into existence in so short a time after the people of this country had given themselves a Constitution of their own is all the more distressing if it is remembered that the struggle for freedom in India was fought on a particularly high moral plane and was led by Mahatma Gandhi who personified integrity. The people of India rightly expected that, when the governance of the country passed into the hands of the disciples of the Father of the Nation who were in their own individual capacities known for high character and ability, Governments in India, at the Centre and the States would set up and achieve a standard of integrity, second to none in the world, both in the political and administrative aspects. It has to be frankly admitted that this hope has not been realised in full measure. But it has to be noted that a good percentage of our public servants, even those who have opportunities, maintain and function in accordance with, strict standards of integrity. We have to base the efforts for a thorough cleansing of our public life, on this solid and hard core of honest public servants. It will be our endeavour in this report to strengthen their hands, to deal drastically with all those who have come to believe that they can corrupt and be corrupt with impunity. Before we can do this, we must face frankly all factors which have tended to corrupt our public life.

SECTION 3

EXTENT OF CORRUPTION

3.3. The following table indicates the number of vigilance cases for ruption among Government servants. In the nature of things it is not possible to give even a rough estimate of the number of corrupt Government servants or the amount of money or value or percentage of illegal gratification that may be involved. However, the statistics furnished below would help in giving a measure of prevalence of the malady. The statistical information furnished below should not be taken as indicating the increase in the quantum of corruption. Increase in complaints, investigations, prosecutions, departmental proceedings and punishment may mean more intensified fight against corruption than any increase in it. It should also be noted that all the complaints and vigilance cases do not relate to charges of bribery and corruption. Quite a number of them are in respect of other types of disciplinary offences.

3.2. The following are the figures of complaints and vigilance cases dealt with by the Government of India during the period 1st April 1956 to 31st December 1962:—

Complaints

	Total No. for disposal	No. disposed of	Percentage of disposal	Pending at the end of the year.
1956—57	4676	3716	79·47	960
1957—58	8540	6463	75·68	2077
1-4-58 to 31-12-58	8313	6220	74·80	2093
1-1-59 to 31-12-59	10649	8366	78·56	2283
1-1-60 to 31-12-60	10721	8548	79·73	2173
1-1-61 to 31-12-61	10481	8148	77·74	2333
1-1-62 to 31-12-62	20461	16178	79·06	4283

3.3. The following table indicates the number of vigilance cases for disposal year-wise from 1956-57 upto the 31st December 1962:—

Vigilance Cases

1956-57	616*	344	55·84	272
1957-58	3694	1974	53·43	1729
1-4-58 to 31-12-58	3714	1809	48·71	1905
1-1-59 to 31-12-59	10035	6380	63·57	3055
1-1-60 to 31-12-60	13305	9530	71·63	3775
1-1-61 to 31-12-61	15116**	10973	72·52	4143
1-1-62 to 31-12-62	19277	13454	69·79	5823

* This figure relates only to Gazetted Officers.

** Out of 15116 cases, 10605 cases pertain to the Posts & Telegraphs Directorate.

(Note.—The increase in the number of vigilance cases in 1960 and 1961 is partly accounted for by the cases arising out of the Central Government employees' strike in 1960.)

During the period 1st April 1957 to 31st December 1962, major penalties (dismissal, removal, compulsory retirement, reduction in rank) were imposed on 5,585 Government servants (154 gazetted; 5,431 non-gazetted); action including imposition of minor penalties was taken against 38,650 Government servants (1,319 gazetted; 37,331 non-gazetted).

3.4. The following are the figures of complaints received and investigated by the Delhi Special Police Establishment :—

Complaints received and investigated by the S.P.E.

Year	Total	Signed or given personally by complainants	Anonymous or pseudonymous	Complaints of minor irregularities referred to Deptts.	Complaints found to be false	Filed for want of proof	Registered as P.E. or R. C.
1	2	3	4	5	6	7	8
1957	2733	1755 (64·22%)	978 (35·78%)	556 (20·3%)	107 (3·9%)	275 (10·1%)	326 (11·9%)
1958	3310	2273 (68·67%)	1037 (31·33%)	991 (29·94%)	207 (6·25%)	539 (16·28%)	542 (16·4%)
1959	3995	2871 (71·86%)	1124 (28·14%)	1100 (27·53%)	255 (6·4%)	706 (17·67%)	614 (15·4
1960	2755	1475 (53·54%)	1280 (46·46%)	644 (23·37%)	75 (2·7%)	542 (19·67%)	193 (7·0%)
1961	3380	1790 (52·95%)	1590 (47·05%)	1316 (38·93%)	162 (4·8%)	1079 (31·92%)	282 (8·3%)
1962	3847	2213 (57·54%)	1634 (42·46%)	1881 (48·89%)	142 (3·69%)	813 (21·13%)	461 (119·8%)

Besides these the Special Police Establishment also collects information from its own sources and channels. The number of informations collected was—

1959	1335
1960	1462
1961	1692
1962	1691

3.5. During the period 1957 to 1962, the number of cases registered by the Delhi Special Police Establishment and the number of Government servants involved in those cases are:—

Year	Number		Government servants involved	
	P.E.	R.C.	Gazetted	Non-gazetted
1957	578	483	185	781
1958	565	495	185	783
1959	547	370	207	957
1960	604	442	172	1110
1961	610	517	195	1092
1962	669	612	212	1113
TOTAL	3573	2919	1156	5836

3.6. The following table indicates the rank of and the organisation to which gazetted officers against whom cases were investigated by the Delhi Special Police Establishment during the year 1957 to 1962:—

Classification of Gazetted Officers against whom cases were investigated during 1957—1962

	1957	1958	1959	1960	1961	1962	Total
Officers of the Secretariat of and above the rank of Under Secretary . .	..	4	4	4	4	4	20
Officers of the Secretariat below the rank of Under Secretary . . .	..	3	5	..	3	5	16
Engineers of above the rank of E. E. .	41	16	35	26	21	22	161
Engineers below the rank of E. E. .	..	65	50	42	40	22	219
Railway officers (other than Engineers)..	17	16	11	6	3	11	64
Military Commissioned Officers . .	14	16	26	25	17	22	120
Directors, Deputy Directors, Asstt. Directors in the Departments of D.G.S.& D., Agriculture, Archaeology etc.	10	4	4	14	10	7	49
Controllers of Imports & Exports and Iron & Steel	..	6	5	6	8	7	32
Income Tax Officers	6	5	8	4	9	15	47
Excise & Customs Officers . . .	2	6	5	5	12	16	46
Senior Officers of Statutory Corporations & public concerns . . .	..	..	13	11	5	18	47
Other Class I	37	27	40	21	13	29	167
Other Class II	54	17	28	30	50	34	213
OTAL :	181	185	234	194	195	212	1201

3.7. The following table gives the number of cases investigated by the Delhi Special Police Establishment during the years 1957 to 1962 classified according to the nature of offences:—

Year	Cases against public servants involving allegations of bribery, corruption, misappropriation and similar types of misconduct.	Cases of breach of Import-Export Regulations.	Cases against private persons and companies
1957 . .	294	184	5
1958 . .	351	137	8
1959 . .	912	131	5
1960 . .	940	124	6
1961 . .	1004	82	17
1962 . .	1168	113	34
TOTAL . .	4669	771	75

3.8. During the period 1957 to 1962, the Delhi Special Police Establishment laid 386 traps in which 429 public servants were involved, 16 of them being gazetted and 413 non-gazetted.

3.9. During the years 1960, 1961 and 1962, the Delhi Special Police Establishment investigated cases of possession of assets by public servants disproportionate to their known sources of income as indicated below:—

Year	No. of new cases	No. of public servants involved		
		Gazetted	Non-Gazetted	Total
1960 . . .	89	24	67	91
1961 . . .	100	27	71	98
1962 . . .	93	24	71	95

3.10. The following table indicates the number of cases relating to violation of import/export regulations registered and investigated by the Delhi Special Police Establishment:—

Year	No. of firms	No. of licences obtained as a result of malpractices	Value of licences mentioned in Col. 3	No. of firms blacklisted
			Rs.	
1958 . . .	90	196	76,66,237	82
1959 . . .	58	139	49,83,128	129
1960 . . .	74	82	37,13,082	88
1961 . . .	156	137	47,92,054	60
1962 . . .	73	106	26,69,641	74
TOTAL . .	451	660	2,38,24,142	433

3.11. The fact that licences worth Rs. 2,38,24,142 were obtained by fraud and other types of malpractices is clear indication of the extent of the problem in the licensing activities of Government. It is common knowledge that each licence fetches anything between 100 per cent to 500 per cent of its face-value if sold. Thus a huge unearned profit, which may be anything from Rupees two to ten crores, should have been made in these transactions and it is anybody's guess as to how much of it went into the pockets of public servants.

3.12. The Ministry of Works, Housing and Supply as it then was had set up in 1957 a unit known as the Chief Technical Examiner's Organisation with a view to introducing a system of internal concurrent and continuous administrative and technical audit of the work of the C.P.W.D. and to secure economy in expenditure and better technical and financial control of the works. *Upto the end of December*, 1962, this organisation detected 1,593 cases of over-payments in the Central Public Works Department involving an amount of Rs. 43,66,667/-. During the Second Plan period the total expenditure on construction and purchases was of the order of Rs. 2,800 crores. It is common knowledge that the custom of percentages is prevalent in respect of contracts of construction, purchases and sales and this is shared in agreed proportions amongst the concerned officials. We were told that in the contracts of construction, 7 to 11 per cent was usually paid in this manner. We were also informed that a system known as "Buyers Commission" is prevalent in certain foreign countries and the commission ranges from 1½ to 3 per cent. If it is assumed that even 5 per cent of the total investment on constructions and purchases during the Second Plan period is accounted for by such corrupt practices, the total loss to the exchequer is about Rs. 140 crores.

3.13. The Public Accounts Committee reported in their sixth report (Third Lok Sabha) as follows:—

> "The Committee are rather alarmed at such a large number of cases of under-assessment involving considerable amounts, detected in the test Audit by the Comptroller and Auditor General, when it is borne in mind that this scrutiny was limited to only a small percentage of cases in 235 Income-tax wards out of 1,310 wards in the country. It is significant to note that the number of cases in which defects, discrepancies, etc., involving under-assessment to the extent of Rs. 120·77 lakhs were found, works out to about 16 per cent of the total number of cases audited (*i.e.* 13,357 cases)."

3.14. There is no acceptable estimate of the amount of tav evaded. The Income-tax Investigation Commission, in the 1,058 cases investigated by it, detected concealed income of the order of Rs. 48 crores.

Concealed income amounting to Rs. 70 crores was disclosed by the assessees themselves under the Voluntary Disclosure Scheme of 1951 in 20,912 cases and the amount disclosed thereby was six times the amount originally reported. An unofficial estimate of the Central Board of Revenue is that about Rs. 45 crores of tax is evaded annually by assessees in the higher income groups, the evaded income being about Rs. 230 crores. We would be happy to believe that all this evasion and avoidance takes place without any connivance or abetment on the part of the Government servants concerned. We, however, are unable to do so. It is common knowledge that some portion of the tax avoided or evaded is shared by many including the assessing officers.

3.15. As a result of the anti-smuggling measures of the Government, smuggled goods of the value as indicated below were seized:—

	1959	1960	1961 (upto Oct. 1961)	1962
		Rs. in lakhs		
Gold	50·34	122·88	246 87	287.97
Currency	15·26	7·61	11·61	6·91
Others	124·36	122·78	136·64	140·c4
TOTAL	189·96	253·27	395·12	434 92

It is obvious that what has been seized does not represent the whole volume of the goods smuggled in. It is accepted on all hands that smuggling is not sporadic or unorganised and that it is a well-organised racket and it is possible that some at least of the customs officials are involved in this racket either on payment of a share regularly or on each occasion.

3.16. The statistics furnished below is also of some interest. However, all the complaints and vigilance cases do not relate to allegations or charges of bribery and corruption. Quite a number of them are in respect of other types of disciplinary offences.

Ministry/Department	No. of complaints	No. of vigilance cases	Dismissal		Removal		Compulsory retirement		Reduction in rank		Other penalties	
			G	NG	G	NG	G	NG	G	NG	G	NG
1	2	3	4	5	6	7	8	9	10	11	12	13
(1) Commerce & Industry .	1129	126	1	5	1	11	..	..	3	8	6	36
(2) Commerce and Industry (Deptt. of C.L.A.) . .	25	35	..		..	1	..	..	..	..	..	4
(3) Community Development & Co-operation . .	9	7	..	2	..	..	..	1	..	..	..	1
(4) Defence	4999	1186	6	59	2	48	3	7	1	59	14	437
(5) Education	244	59	..	3	..	3	..	..	1	..	..	16
(6) External Affairs . . .	243	80	2	10	1	7	..	..	2	2	5	20
(7) Finance (Customs and Central Excise) . .	7984	2746	8	104	2	147	1	7	6	131	32	906
(8) Finance (Defence Divn.) .	107	57	..	2	..	4	..	..	1	3	2	24
(9) Finance (Economic Affairs) .	213	70	..	17	..	3	..	..	1	3	1	18
(10) Finance (Expenditure)	67	35	..	.	..	1	..	..	..	..	..	9
(11) Finance (Income-tax) .	1678	327	4	33	4	18	2	2	4	30	19	147
(12) Finance (Revenue) .	..	4	..	..	..	..	..	..	..	1	..	1
(13) Food and Agriculture (Deptt. of Agriculture)	822	539	..	10	..	40	..	..	1	44	7	222
(14) Food and Agriculture (Deptt. of Food) . . .	1311	934	..	23	..	46	..	..	5	17	5	548
(15) Health	1595	127	..	6	..	15	1	1	..	11	2	95
(16) Home Affairs . . .	2567	609	5	62	7	50	2	11	8	64	25	72
(17) Information and Broadcasting	905	260	..	13	1	20	..	4	2	10	5	79

1	2	3	4	5	6	7	8	9	10	11	12	13
(18) Irrigatio and Power . .	516	116	..	7	2	8	..	..	1	6	10	17
(19) Labour and Employment .	649	257	3	17	4	22	..	..	2	19	9	103
(20) Law	15	6	..	..	..	..	..	..	..	..	..	4
(21) Mines and Fuel . .	538	73	..	5	..	7	..	..	..	4	2	13
(22) Railways	7214 (for 1962 only)	2047 (for 1962 only)	..	23	..	86	1	1	1	55	8	597
(23) Scientific Research and Cultural Affairs . . .	738	352	..	6	1	26	1	4	2	8	10	194
(24) Steel and Heavy Industries (Department of Iron and Steel)	212	42	2	3	..	6	1	1	..	4	2	8
(25) Transport and Communications (Department of C. & C.A.)	3425 (includes figures for DGP & T for the years 1958 and 1959)	4684	..	214	4	185	6	25	3	236	23	2769
(26) Transport and Communications (Department of Transport)	516	510	1	93	2	25	1	2	3	14	6	84

1	2	3	4	5	6	7	8	9	10	11	12	13
(27) Posts and Telegraphs . .	2842 (does not include figures for DGP & T for 1958-59)	5909	..	630	..	394	..	61	1	896	40	3887
(28) Department of Rehabilitation . . .	2138	..	289	1	9	..	27	..	1	3	10	50
(29) Works, Housing and Supply	4407	1073	7	26	1	15	2	4	2	47	106	227
(30) President's Secretariat .	..	..	..	..	..	..	..	..	..	..	..	..
(31) Cabinet Secretariat . .	230	128	..	13	..	16	..	..	..	6	..	63
(32) President's Estate . .	..	..	..	..	..	..	..	..	..	..	..	..
(33) Prime Minister's Secretariat .	..	3	..	2	..	..	..	..	..	..	..	..
(34) Planning Commission . .	142	55	..	1	..	..	..	..	..	..	1	26
(35) U.P.S.C.	10 (does not include figures for year 1957, 1960 and 1961)	5 (does not include figures for year 1957, 1960 and 1961)	..	..	..	..	..	..	..	..	..	..

	2	3	4	5	6	7	8	9	10	11	12	13
(36) Delhi Administration . .	4861	1601	..	137	..	89	..	1	3	30	10	685
(37) Union territories (except Delhi) . .	1527 (figures for 1957 and 1958 incorporated against Ministry of Home Affairs)	1785	..	86	1	139	..	9	..	87	14	706

3.17. In the foregoing paragraphs we have attempted to set out some facts which may give an indication of the extent of the problem. It is clear that corruption is not confined to lower ranks of public servants and that the number of gazetted officers whose cases had to be investigated was disturbingly large.

SECTION 4

CONDUCT RULES

4.1. We found that different categories of Government servants were governed by separate, but substantially similar, sets of conduct rules. The following sets of rules are in force:—

(i) All India Services (Conduct) Rules, 1954.

(ii) Central Civil Services (Conduct) Rules, 1955.

(iii) Railway Services (Conduct) Rules, 1956.

We considered that there was no justification for separate rules, at least, in so far as they relate to integrity. We, therefore, took up for examination the provisions of the various sets of rules which had a direct or indirect bearing on integrity in public services.

4.2. The conduct rules evolved gradually, a rule or instruction being made or issued as and when provision had to be made in dealing with a particular situation. The Government made rules or issued instructions regarding public servants—

(i) lending and borrowing by gazetted officers, in 1890 and by non-gazetted employees, in 1869;

(ii) accepting gifts, in 1876;

(iii) buying and selling houses and other valuable property, in 1881;

(iv) entering into any pecuniary arrangement for resignation by one of them of any office under Government for the benefit of others, in 1883;

(v) making investments other than those in immovable property and speculating, in 1885;

(vi) promoting and managing companies, engaging in private trade and employment, in 1885;

(vii) raising subscriptions by public servants, in 1885;

(viii) being habitually indebted or insolvent, in 1885;

(ix) accepting commercial employment after retirement, in 1920.

Thus, it will be seen that the Government in the past was aware of the possible manifestations of corruption and were doing all they could, consistent with the spirit of the times, to combat the evil.

4.3. After the commencement of the Constitution fresh rules were made and issued. The rules relating to All India Services were issued under the All India Services Act, 1951. The new rules did not make any radical changes with the result that in respect of many matters the rules were either silent or inadequate. We give below a few examples:—

(i) There was no rule which cast a specific responsibility or duty on superior officers to keep a watchful eye on the integrity of other Government servants working under them.

(ii) No rule made it clear that every Government servant is responsible for his actions except when he acts under the directions of his official superior. (This lacuna was fully made use of by the officers concerned in the disciplinary proceedings arising out of the Life Insurance Corporation transaction of purchase of shares from Shri Haridas Mundhra.)

(iii) There was no clear specification of the conduct expected of a Government servant in the event of conflict between public duty and his private interest, though some of the points were implied but left unsaid.

(iv) The rules relating to raising of subscriptions, acceptance of gifts, engaging in speculation, private trade or employment resulted in harassment and pin-pricks in some respects and were inadequate in certain other respects.

(v) The rule relating to submission of property returns was hopelessly out of date. Annual immovable property returns serve no useful purpose when the tendency in modern times is to hold assets otherwise than as immovable property.

4.4. We examined the rules in all their aspects and formulated certain provisional proposals regarding the amendments which appeared necessary or desirable. The Chairman of the Committee was authorised to circulate the provisional proposals to all Secretaries of the Government of India with a view to obtaining their views and comments and accordingly the provisional proposals of the Committee were forwarded to all Secretaries of Government on 13th December, 1962. Replies were received from all except the Ministries of Education and Law. After carefully considering the views and comments of the different Ministries/Departments, we finalised our recommendations at the meetings held on 20th, 21st and 22nd March, 1963.

4.5. We had recommended in our interim report that there should be only one set of Conduct Rules applicable to all Government servants employed in connection with the affairs of the Union and to

the members of the All India Services. Our intention was that the Conduct Rules, particularly those relating to integrity, should be uniform. If, for any reason, it is necessary to promulgate the rules separately for a service or a Department there could be no objection to the rules being promulgated separately provided the rules, particularly those relating to integrity are uniform. If any modifications are to be made or if the rules are to be liberalised, such modifications or liberalisation should be made only in consultation with the Central Vigilance Commission and with the concurrence of the Ministry of Home Affairs.

4.6. The Interim Report contains recommendations regarding Conduct Rules submitted to Government on 9th May, 1963, and is in Annexure III. We have made a minor change in rule 13(4) (i), as recommended by us, by adding the words "duly authorised to conduct banking business" after the words 'firm of standing" to cover cases where Government servants lend money to businesss firms at high rates of interest even though such firms do not carry on banking business. We consider this amendment to be necessary as there are reasons to believe that the business firms concerned enter into such transactions because of the official position which the Government servant occupies and because they expect some official favours from the Government servant.

4.7. We made only minor changes in respect of many of the rules. We fully appreciate that the rules in existence have gradually evolved over a period of time after mature thought. The more important changes recommended by us are stated below:—

(1) A duty has been cast on Government servants holding supervisory posts to keep a watchful eye on the integrity of the staff working under them.

(2) Every Government servant should take full responsibility for his actions and orders, except where he acts under the directions of his official superior.

(3) The conduct expected of every Government servant in case of conflict between public duty and private interest has been clearly stated in Rule 3(A) which brings out some of the points that were hitherto implied but left unsaid.

(4) Rule 10 which deals with the question of receipts of gifts states the position more precisely and also liberalises the existing rules so as to prevent too much interference in private life. The financial limits have been suitably modified.

(5) Government servants should submit periodically a complete statement of their assets and liabilities instead of the

annual immovable property statements which have been found to serve no useful purpose. In these periodical statements the value of movable property except articles of daily use, like clothes, utensils, crockery and books should be stated including the value of jewellery.

4.8. The Ministry of Home Affairs were good enough to consult us in regard to certain points that emerged out of their examination of our recommendations regarding modification of the Conduct Rules. It was brought to our notice that the Ministry of Labour and Employment have suggested that the present exemption to industrial employees drawing a pay of Rs. 500/- or less and holding non-gazetted posts in a number of Government Industrial Undertakings from the operation of existing rules 3A, 4A, 4B, Rule 9, explanation to sub-rule (2) of Rule 10, Rule 11, sub-rule (2) of Rule 12, Rule 13, Rule 15, 16, 17 and 18 should continue. These exemptions were granted in 1959. We would only suggest that the need for the continuance of these exemptions may be re-examined and in the meantime the exemptions may continue to be in force.

4.9. A number of drafting changes were suggested. We did not consider it necessary to go into these as the final wording of the rules will have to be settled in consultation with the Ministry of Law. We, however, agree that the definition of Government servant' suggested by us may be restricted to persons appointed to any civil service or post in connection with the affairs of the Union. We considered the other suggestions, some of which tended to make the rules more strict and some of which were for retention of existing provisions. We had framed our recommendations after careful consideration and we do not consider it necessary to modify those recommendations.

SECTION 5

DISCIPLINARY RULES

5.1. The Public Servants (Inquiries) Act, 1850, was put on the Statute Book, 144 years ago and it is still good law. The Secretary of State for India made rules in 1930 under Section 96(B) of the Government of India Act, 1919, regarding the procedure to be followed in departmental disciplinary proceedings and these were replaced by:

(i) All India Services (Discipline and Appeal) Rules, 1955.

(ii) Central Civil Services (Classification, Control and Appeal) Rules, 1957.

(iii) Discipline and Appeal Rules for Railway servants, other than those employed in the Railway Protection Force.

(iv) Civilians in Defence Services (Classification, Control and Appeal) Rules, 1952.

Thus, as in the matter of Conduct Rules, different sets of rules, though substantially similar, are applicable to different categories of Government servants.

5.2. Under the English common Law all servants of the Crown hold office during the pleasure of the Crown and are liable to be dismissed at any time and without reasons being assigned for such dismissal. Section 74 of the Government of India Act 1833 made all services under the East India Company subject to the pleasure of the Crown and except in cases where the appointment was made directly by the Crown, also subject to the pleasure of the Court of Directors. The Government of India Act, 1858, made after the Crown took over the Government of this country, made provision by Section 3, for the exercise of all powers vested in the Court of Directors by the Secretary of State for India and by Section 37 delegated to the Secretary of State all the powers in relation to the servants of the Company till then vested in the Directors. The Government of India Act, 1915, which was in the nature of a consolidating Act, repealed all the earlier enactments relating to the Government of this country and by Section 30 of that Act preserved the earlier tenures of service and continued the rules and regulations applicable to them. Section 96(B) which was enacted in the year 1919 had the apparent effect of circumscribing the doctrine of pleasure by providing that every

person in the Civil Services of the Crown in India holds office during His Majesty's pleasure "subject to the provisions of this Act and the rules made thereunder". However, the Privy Council ruled in Venkata Rao *versus* Secretary of State for India (AIR 1937 P.C. 31) that these words do not have the effect of limiting the doctrine of pleasure. Section 240 of the Government of India Act, 1935 reproduced section 96(B) of the previous Act in sub-section (1) and (2) and added a new sub-section by which additional protection was given to the civil servant by providing that he shall not be dismissed or reduced in rank until he had been given a reasonable opportunity of showing cause against the action proposed to be taken, in regard to him. The definition contained in Section 277 of the said Act shows that the expression "dismissal" included removal from service.

5.3. The Constitution of India was adopted in 1950. Article 309 deals with the rule making power of the President and Governors in respect of persons holding civil posts in connection with the affairs of the Union or the States, as the case may be. Article 310 provides that civil servants hold office during the pleasure of the President or the Governor as the case may be. Article 311 deals with dismissal, removal or reduction in rank of such persons. The unanimous consensus of judicial opinion in this country is that the doctrine of pleasure does not operate in its amplitude and is restricted by the other provisions of the Constitution such as Article 311, 124, 148, 218 and 324.

5.4. The scope of Article 311 has been considered on a number of occasions both by the Supreme Court and the High Courts of the country. The courts have imported the requirement of conformity to the principles of natural justice by relying upon the words 'reasonable opportunity' used in article 311. In Joseph John *Vs.* the State of Travancore-Cochin, the Supreme Court have observed that the word 'reasonable' must mean according to the rules of natural justice. But the fact that the rules of natural justice have not been completely or precisely determined has enabled the courts to prescribe various restrictive conditions. Some of them are:

(1) The opportunity provided can be considered reasonable only if it gives to the Government servant—

(a) an opportunity to deny his guilt and establish his innocence on being told what the charges levelled against him are and the allegations on which such charges are based;

(b) an opportunity to defend himself by cross-examining the witnesses produced against him and by examining himself or other witnesses in support of his defence;

(c) an opportunity to make representations as to why the

proposed punishment should not be inflicted on him. (AIR 1958 S.C. 300).

(2) The breach of rules of evidence which may be nothing but rules of natural justice may be relevant in connection with the question as to whether sufficient opportunity was or was not given to a Government servant. (AIR 1958 All. 532).

(3) If a delinquent official is asked to defend himself before a person who is already biased against him or who has already prejudged the issues and who is in no way amenable to consider the matter objectively and dispassionately, the court will conclude that a reasonable or real opportunity to defend has not been given. (AIR 1959 Punjab 402; AIR 1958 Punjab 327; AIR 1958 Allahabad 532; AIR 1957 A.P. 414; AIR 1956 All. 578).

(4) If an inquiry officer puts on record his own evidence as against that of another witness and thereafter continues to preside over the trial, the presiding officer becomes disqualified on the ground of bias. An inquiry officer cannot both be a judge and a witness. This is contrary to rules of natural justice. (AIR 1958 S.C. 86; AIR 1956 Cal. 278; AIR 1956 Cal. 114; 1954—58 Cal. W.N. 988; 1955—59 Cal. W.N. 794).

(5) The inquiring Officer should not prejudice the case of the accused by looking into unspecified documents behind his back and not disclosing in the report what documents he had looked into. (AIR 1958 Cal. 49).

(6) If the inquiring authority has the duty to come to a conclusion as to the guilt of the delinquent upon an evaluation or assessment of the evidence, then he should himself hear the evidence. (AIR 1958 Cal. 47; AIR 1946 P.C. 1).

(7) The charge should not be vague. (AIR 1961 Cal. 40; AIR 1960 All. 543).

(8) Reasonable period should elapse between the date of the delivery of charges and the commencement of the inquiry. (AIR. 1961 Cal. 626).

(9) Copies of the statements made by the witnesses prior to the regular inquiry should be furnished to the person who is being proceeded against. (AIR 1961 S.C. 1623; S. C. Judgment in Raizada Trilok Nath *Vs.* Union of India).

10) Non-production of relevant documents asked for by the delinquent officials and non-examination of relevant wit-

nesses called for, would amount to denial of adequate opportunity. (AIR 1958 A.P. 240; AIR 1957 A.P. 794).

(11) The statement of the witnesses must be recorded in the presence of the delinquent official. It is not permissible to examine witnesses in the absence of the delinquent or to take *ex-parte* statements and then ask the delinquent to cross-examine witnesses. It is not permissible to put on record statement recorded by an officer other than the inquiry officer and to produce witnesses only for cross-examination. (AIR 1960 Mysore 159; AIR 1954 Bom. 351).

(12) Non-supply of inquiry officer's report when demanded by delinquent official would constitute denial of reasonable opportunity. (AIR 1959 All. 47; AIR 1948 P.C. 121).

(13) The show-cause notice should be in the name of the punishing authority, or with its authority, consent or approval. This would make it an act of the punishing authority, and not an act of a third party. (AIR 1958 Cal. 633).

(14) A proper opportunity must be afforded to a Government servant at the stage of the inquiry after the charge is supplied to him as well as at the second stage when punishment is about to be imposed on him. If the first inquiry was materially defective and denied the public servant an opportunity to prove his case it is impossible to hold that a reasonable opportunity guaranteed to a public servant by Art. 311(2) had been afforded to him. (AIR 1961 S.C. 1623).

(15) The disciplinary authority is entitled to take into consideration the record of the past service of a civil servant in order to determine the appropriate punishment but before taking this into consideration, the civil servant must be apprised of the record of his past service and of the fact that it would be taken into account to decide the question of punishment. (AIR 1960 Mysore 159; AIR 1957 Madhya Pradesh 126).

5.5 The courts have come to accept that: a departmental proceeding consists of four main stages, namely, (a) charges, (b) investigation of the charges, (c) finding and punishment and (d) appeal; the charges must be specific and the test is whether they convey to the delinquent the exact nature of the alleged offence so that he could meet the charges; an inquiry held to investigate the charges is not a judicial proceeding and as such the strict procedure of judicial proceedings need not be followed in such an inquiry; nevertheless

the proceedings cannot be held in an arbitrary manner and the rules of natural justice must still be applied; ordinarily there must be a personal hearing; if a person is entitled to show cause he is entitled to hearing and if he is entitled to a hearing he must have an opportunity of being personally heard, of cross-examining any witness called against him, of rebutting documentary evidence that may be produced against him and of producing evidence in his behalf; the entire proceedings from its inception to the completion will be looked into not to ascertain whether the decision is sound on merits but to find whether reasonable opportunity has been given; the principles of natural justice will have to be adhered to not only in the first stage ending with the issue of show cause notice but also in the second stage which commences with the issue of show cause notice.

5.6. Departmental proceedings, when taken under the Central Civil Services (Classification, Control & Appeal) Rules, 1957 or the All India Services (Discipline & Appeal) Rules, 1955 or other similar rules involve the following stages;

(1) The disciplinary authority has to reduce to the form of a definite charge or charges the ground on which it is proposed to take action.

(2) The charge must be communicated to the person charged.

(3) The persons charged should also be given a statement of the allegations on which the charge or, if there are more than one charge each charge is based.

(4) If there are any other circumstances, which are proposed to be taken into consideration in passing orders in this case, they should also be communicated to the person charged.

(5) After the charge is given, the person charged should be given a reasonable time to put in a written statement of his defence and to state whether he desired to be heard in person.

(6) If he so desires, and even if he does not desire but if the authority concerned so directs, an oral inquiry must be held.

(7) The disciplinary authority may inquire into the charges itself or appoint a Board of Inquiry or Inquiry Officer for the purpose.

(8) Evidence, oral and documentary, should be brought on record in respect of allegations that are not admitted and the person charged should be given an opportunity to

cross-examine witnesses, if any, and to produce evidence on his behalf, provided that the inquiring authority can, for reasons to be recorded in writing, decline to examine any witness on the ground that his evidence is not relevant or material.

(9) The disciplinary authority must consider the record of inquiry and record its findings on each charge and provisionally decide as to the penalty to be imposed on the accused officer.

(10) The disciplinary authority must furnish to the accused officer a copy of the report of the Inquiry Officer and give the Government servant a notice stating the action proposed to be taken in regard to him and calling him to submit within specified time such representation as he may wish to make against the proposed action.

(11) In every case in which it is necessary to consult the Public Service Commission, the record of the inquiry, together with a copy of the show-cause notice and the representation made in response to such notice, if any, shall be forwarded by the disciplinary authority to the Commission for its advice.

(12) On receipt of the advice of the Commission, the disciplinary authority shall consider the representation, if any, made by the Government servant and the advice given by the Commission and determine what penalty, if any, should be imposed on the Government servant and pass appropriate orders on the case.

5.7. The foregoing would indicate how highly involved the procedure of disciplinary proceedings has become. While the disciplinary provisions and procedures applicable to the civil services are not dissimilar to those in serveral other countries, the procedure for imposing the penalties of dismissal, removal, compulsory retirement and reduction in rank is far more elaborate and formal, which is mainly due to the way in which the courts have interpreted Article 311. In the United States of America when it is proposed to dismiss, remove or demote a federal employee he cannot claim any trial or hearing which is granted in the discretion of the department concerned. Such an employee is required to submit a written reply in his defence normally within five working days. The permanent non-veteran employees have limited rights of appeal to the Civil Service Commission. In the United Kingdom, matters of this sort are "dealt with entirely through the usual channels of command and the final authority in each department is the Minister himself, advised by the Permanent Secretary." Disciplinary proceedings are conducted

without undue formality and there is no standard practice which would be applicable to every case, though care is taken that no Government servant is punished unless he has been given an opportunity to defend himself. In Australia and New Zealand the time within which the employee has to give his written statement of defence is 7 days and 3 to 5 days respectively. In India, however, the Government servant is in a far more secure position which on the one hand gives him the right to be informed of the charges and evidence, to file a written statement (at his convenience), to be heard once against the charges and again to represent against the proposed action, to have his case considered by the Public Service Commission, to appeal or submit a memorial and later to move the courts if he is aggrieved by an order. It is therefore not surprising that a disciplinary case drags on for years and that, in some cases the orders passed are declared void as being violative of Article 311 resulting in payment of arrears of large sums and the public services being saddled with men of doubtful integrity.

5.8. Article 311 was recently sought to be amended with a view to dispense with the requirements of a second opportunity. This Committee supported the proposal and also expressed the view that the proposed amendment was not adequate and that in order to ensure speedy action, Parliament should have the power to regulate by law all matters relating to an inquiry against a Government servant including the jurisdiction of Courts in relation to such inquiry. We recommended the addition of another clause to Article 311 in the following terms:

> "Notwithstanding anything contained in Parts III, IV and VI of the Constitution, Parliament may, by law, regulate all matters relating to such inquiry as is referred to in clause (2) and action taken thereafter, including the jurisdiction of Courts in respect of proceedings relating to such matters".

Our recommendation on the subject is in Annexure II. It is a matter of regret that our recommendation was not only not accepted but the purpose with which the amendment of the Constitution was undertaken was completely defeated, by restoring the requirement of a second opportunity. We are not at all certain that the stipulation that in exercising the second opportunity the Government servant should confine himself to the evidence already brought on record during the inquiry in the first stage would make any substantial difference from the point of view of expeditious action against corrupt Government servants. We consider that it would not be an unreasonable classification to treat departmental proceedings involving charges of bribery, corruption or lack of integrity in a separate category and provide for a simplified procedure. We also consider

that in such case, the jurisdiction of courts including the power of the Supreme Court and High Courts under Articles 32 and 226 respectively of the Constitution should be limited. We also consider that Article 314 should not come in the way of dealing effectively with members of the former Secretary of State Services. We have therefore recommended an amendment, in Section 7, of Article 311 by addition of another clause somewhat on the following lines:—

> "Notwithstanding anything contained in Parts III, IV, VI and XIV of the Constitution, Parliament may by law regulate all matters relating to maintenance of integrity and honesty in the services and posts under the Union and States including the jurisdiction of Courts in respect of such matters".

We further recommend that the power to legislate in this behalf should be added as an item in List I of Schedule VII of the Constitution.

5.9. In view of the Constitutional requirements and the judicial pronouncements, we consider that it would not be possible to radically simplify the procedure unless the Constitution is suitably amended. However, we examined the possibility of simplifying the procedure in relation to disciplinary proceedings to the extent possible within the existing legal frame-work.

5.10. As in respect of the Conduct Rules, after examining the existing rules and the law on the subject, we formulated certain provisional conclusions. These were circulated to all the Secretaries to the Government of India for their views and advice. We have carefully considered their views and finalised our recommendations at the meetings held on 16th and 17th August, 1963, gave an interim report on the subject on August 23, 1963 and it is in Annexure IV.

5.11. The interim report may be treated as a part and parcel of this report. The more important recommendations contained in the interim report are stated below:—

(i) There should be only one set of Discipline and Appeal Rules in respect of Government servants serving in connection with the affairs of the Union or appointed by the Union Government. (By this we did not intend that the rules should be promulgated as one set. All that we intended was that the rules should be uniform and subject to this, the manner of promulgation can be settled according to convenience);

(ii) the definition of the term "Government servant" has therefore been enlarged to include members of the All India Services;

(iii) the President may impose any of the prescribed penalties and institute disciplinary proceedings against any Government servant including a member of the All India Service (Rule 8) or direct a disciplinary authority to institute such proceedings [Rules 9(1)];

(iv) the Central Government may institute proceedings against a member of an All India Service if the circumstances of the case are such that the Central Government is satisfied that it would be in public interest to institute such proceedings provided that before doing so the Central Government shall consult the State Government;

(v) the power to institute departmental proceedings has been given to the President, specified disciplinary authorities and such other authorities as may be empowered by the President by general or special order. (This last recommendation was made in view of the recommendation of the Committee that the Directorate of Vigilance of the Central Vigilance Commission should have the power to determine the nature of disciplinary proceedings to be initiated and to initiate, conduct and complete such proceedings. Though in the scheme of the Central Vigilance Commission, as accepted by the Government, the power to initiate, conduct and complete such proceedings has not been given to the Central Vigilance Commission, the provision made in the rules may be allowed to stand);

(vi) the penalties of withholding or withdrawing in full or in part the pension which can now be imposed under Civil Service Regulation 351 (A) and Rule 6 of the All India Services (Death-*cum*-Retirement Benefits) Rules, 1958 have been included in the categories of penalties prescribed under Discipline and Appeal Rules and the procedure for imposing such penalties has been made part of the Discipline & Appeal Rules;

(vii) the requirement of the accused officer submitting a written statement of defence after the framing of charges has been dispensed with;

(viii) the rules relating to suspension, regulation of the period of absence from duty after reinstatement of an officer who had been dismissed, removed or suspended provide for removal of certain difficulties that have arisen out of some recent pronouncements of the courts;

(iv) the requirement of submitting an appeal or a memorial through the authority which passed the order which is the subject matter of the appeal or memorial has been dispensed with to minimise delay.

5.12. We would like to draw attention to another important matter before we conclude this Section. The Government had taken powers as far back as 1919 to compulsorily retire a Government servant, other than a military officer or a member of the Indian Civil Service, after he has completed twenty-five years' qualifying service without giving any reasons and without any liability for special compensation. This right was to be exercised only when it was in public interest to dispense with the service of a Government servant. The power was originally taken in respect of only those who joined their appointment after 28th August 1919 or those who were in service on that date but had elected in writing with the permission of the Government to be governed by the new rules promulgated at that time. This power was later extended to the following categories of Government servants:—

(i) an officer who entered Government service on or after 1st October 1938; or

(ii) who having entered service before that date did not hold a lien or suspended lien on a permanent pensionable post before that date; or

(iii) who is transferred on or after 1st October 1938 permanently to service under the Central Government from service under Provincial Government or Local Fund.

Thus the Government had an absolute right to compulsorily retire any Government servant (excluding member of the Indian Civil Service and military officers) on completion of 25 years qualifying service whether he be a pre-1938 or post-1938 entrant. The Supreme Court had in a number of its pronouncements held that an order of compulsory retirement passed in exercise of the powers referred to above does not attract article 311, but it has been brought to our notice that the Allahabad High Court have some time back held that the exercise of the power referred to above will be violative of article 14 of the Constitution and the matter is *sub-judice*.

5.13. One of the recommendations contained in the paper on measures for strengthening administration laid on the tables of the Lok Sabha on 10th August 1961 and the Rajya Sabha on 24th August 1961 reads as follows:—

"It is proposed to appoint a small committee in each Ministry to locate officials who are ineffective or against whom suspicions exist regarding their integrity amounting to moral conviction. Measures will be taken to develop the ineffective persons by necessary counselling and training. In case persons are not capable of improvement and are in the age group of 40 to 50, they will be retired

> either on completion of 25 years of service or at the age of 50 years whichever is earlier. The retirement rules will be amended suitably. Persons lacking in integrity will be dealt with separately".

This recommendation has not yet been reduced into an enforceable instrument because the question of the constitutional validity of such powers is *sub-judice.*

5.14. We are firmly of the opinion that the Government should have the power to compulsorily retire a Government servant who has completed 25 years of qualifying service or has attained the age of 50 years without giving any reason and without liability for special compensation. We recommend that a Committee with the Central Vigilance Commissioner as the Chairman and two Secretaries to Government as members should be set up to review the cases of all gazetted officers who are due to complete 25 years of service or will be attaining the age of 50 years during the ensuing year and recommend the names of the officers who should be compulsorily retired. In regard to non-gazetted employee of the Central Government, there should be one or more committees State-wise or Department-wise as may be convenient. A nominee of the Central Vigilance Commissioner may be the Chairman of each Committee.

5.15. Government have recently issued orders raising the age of retirement to 58, reserving to themselves the power to bring about the retirement of the officer at the age of 55 after giving a three months' notice. The officer can also give such a notice and retire.

5.16. We have noticed a rather anomalous position regarding the officers belonging to the All India Services. Rule 17 of the All India Services (Death-*cum*-Retirement Benefits) Rules, 1958 has considerable value and utility in weeding out officers of doubtful integrity; but its application has been left to the initiative of the State Governments. That rule which was amended in May 1963, reads, as follows:—

> "(1) A member of the Service may, after giving at least three months' previous notice in writing to the State Government, retire from the service on the date on which he completes 30 years of qualifying service or attains the age of 55 years or any date thereafter to be specified in the notice.
>
> (2) The State Government may, with the approval of the Central Government and after giving him at least three months' previous notice in writing, require a member of the Service to retire from the Service on the date on

which he completes 30 years of qualifying service or attains the age of 55 years or on any date thereafter to be specified in the notice.

(3) A retiring pension and death-*cum*-retirement gratuity, shall be granted to a member of the Service who retires under sub-rule (1) or who is retired under sub-rule (2)".

5.17. The amendment to rule 17 arose from the Government of India's decision to enhance the age of superannuation from 55 to 58 for officers of All India Services.

It is noticed that if the State Government did not wish to initiate such a proposal, the Central Government cannot require an officer to be retired even if they were convinced that he was corrupt or inefficient. This is the position even where the officer had been with the Central Government for many years, and they are in a better position than the State Government to assess his suitability for retention. It is anomalous that the Central Government, who control the two All India Services, should have no initiative in this regard even in connection with officers under their immediate control.

5.18. Rule 20 of the All India Services (Death-*cum*-Retirement Benefits) Rules, 1958, provides that the full retirement benefits admissible to an officer shall not be given as a matter of course or unless the service has been thoroughly satisfactory. Sub-rule (2) of this rule prescribes further that—

"If the service has not been thoroughly satisfactory, a reduction in the amount of retirement benefits, otherwise admissible under these Rules may be made by the Central Government on the recommendation of the State Government to such extent as the Central Government may deem appropriate:

Provided that the retirement benefits once granted shall not be reduced on the ground that proof of the service not having been thoroughly satisfactory became available after the sanction."

5.19. Under this rule the Central Government are not empowered to make any reduction in the retirement benefits except on the recommendations of the State Government. The Central Government are not competent to order a reduction even in the case of officers serving under them and about whom they are in a better position to judge the quality of service. If a reduction is recommended by the State Government, however, they have the right to

reduce or enhance without any limit the cut proposed by the State Government. We are aware that retirement benefits are the financial liabilities of the State Governments, who may feel that the decision whether proceedings should be initiated should be left to them for this very reason.

5.20. We consider that it would be desirable to correct the anomalies pointed out above. The Central Government should have the power to take action under both the rules after consultation with the concerned State Government.

SECTION 6

PREVENTIVE MEASURES

6.1. Corruption cannot be eliminated or even significantly reduced unless preventive measures are planned and implemented in a sustained and effective manner. Preventive action must include administrative, legal, social, economic and educative measures.

6.2. The main effort for checking corruption and for creating an environment which will sternly discourage any temptation to stray away from the path of integrity must come from within the Ministry/Department. The responsibility in this behalf should not only be clearly recognised, emphasised and accepted but it should also be understood that it is not sufficient to take action when some case comes to notice and that it is far more important to be continuously on the watch for and discover the sensitive spots. A systematic and thorough review of the laws, rules, procedures and practices should be undertaken for the purpose of listing (a) discretionary powers (b) levels at which such powers are exercised (c) the manner of exercise of such powers (d) the control exercised within the hierarchy over the exercise of such powers (e) the points at which citizens come into contact with the Ministry/Department and the purposes for which they do so.

6.3. Besides, a thorough study should be made in respect of each Ministry/Department/undertaking of the extent, the possible scope and modes of corruption, preventive and the remedial measures prescribed, if any, and their effectiveness. We regret to notice that such an attempt does not appear to have been made so far. We recommend that such studies should be started on a priority basis in respect of each Ministry/Department/undertaking and the Central Vigilance Commission should also pay attention to this important piece of work for which purpose Government may provide the necessary staff and other facilities.

6.4. Representatives of business and trade, whom we met in Calcutta and Bombay almost unanimously pointed out that non-association of trade organisations or their representatives in matters like licensing and allocation of scarce commodities encouraged malpractice and corruption to some extent. They also pointed out that Government has to depend upon the reports submitted by its officers working in the field regarding the worth of the applicant. These officers are not always in a position to assess correctly the actual position. However, every trade organisation worth the name knows

who in the trade are genuine and men of character and who are not. It was represented to us that if trade organisations were brought into the picture they should be able to make their knowledge available to Government. Some of the responsible trade organisations declined, rightly in our view, to undertake the full responsibility in matters relating to grant of licences and allocation of scarce goods. They were willing to act only in an advisory capacity. We consider this a very helpful attitude and it should be encouraged. We recognise that unless the trade organisations are really representative many practical difficulties would arise. These organisations are voluntary and except expulsion no penal action can be taken. Even expulsion from the organisation does not amount to much as it does not result in rendering the expelled member ineligible for obtaining licences or permits. Thus there is no incentive for becoming a member of a trade organisation and cases have come to notice where persons or establishments, who or which remained out-side the concerned trade organisations got all they wanted by direct approaches to Government at different levels including the highest. Such cases give rise to a widespread feeling that if proper approaches could be arranged anything can be got done. Such impressions cause damage in no small measure. We would, therefore, recommend that serious thought should be given as to how trade associations or their representatives could be associated in the matter of granting licences and allocation of scarce goods. We consider that membership of a recognised trade organisation should be a necessary condition of eligibility for obtaining a licence or a permit. The organisation should screen the capacity of the applicants, their past performance and conduct and make recommendations to the licensing authority. These organisations may also be usefully associated in investigating modes of misuse and misutilisation of goods obtained under licence and modes of manipulation of prescribed rules, procedures and forms for obtaining undeserved advantage. We recognise that many details will have to be worked out like the principles of recognition, protection of the small trader, prevention of arbitrariness etc. We suggest that this question may be dealt with by the concerned Ministries in consultation with the trade organisations.

6.5. The representatives of the trade organisations and other non-officials, whom we met emphasised that apart from other things the major causes of corruption are:—

(i) Administrative delays;

(ii) Governments taking upon themselves more than what they can manage by way of regulatory functions;

(iii) Scope for personal discretion in the exercise of powers vested in different categories of Government servants; and

(iv) Cumbersome procedures of dealing with various matters which are of importance to citizens in their day-to-day affairs.

6.6. There is considerable force in what has been represented to us and we deal with each of these below:—

6.6.1. (i) *Administrative delays*:

It was the unanimous opinion of all witnesses who appeared before us that administrative delays are one of the major causes of corruption. We agree with this view. We have, no doubt, that quite often delay is deliberately contrived so as to obtain some kind of illicit gratification. Administrative delay must be reduced to the utmost extent possible and firm action should be taken to eliminate all such causes of delays as provide scope for corrupt practices. We are aware that the proposed Department of Administrative Reforms will be dealing with this problem in detail. We recommend that the following steps may be taken to deal with this problem:—

(a) Each Ministry/Department/undertaking should immediately undertake a review of all existing procedures and practices to find out the cause of delay, the points at which delay occurs and to devise suitable steps to minimise the possibility of delay.

(b) Time-limits should be prescribed, if not already done, for dealing with receipts, files etc., and these should be strictly enforced. Superior officers should consider it their responsibility to find out whether in any particular matter there has been any avoidable delay and call the persons responsible for the delay to account.

(c) All notings at a level lower than that of Under Secretaries should be avoided. The responsibility of the Section should be only that of putting up previous papers and precedents. This procedure should be strictly observed in Ministries/Departments which have to deal with the grant of licences or permits of various kinds.

(d) The levels at which substantive decision could be taken should be prescribed and any attempt to involve as many as possible should be discouraged and dealt with severely, if found to be persisted in.

6.6.2. (ii) *Governments' taking upon themselves more than what they can manage by way of regulatory functions.*

We are not in a position to assess the correctness of this criticism. But it is to be recognised that in all those fields where Government interferes to regulate and control there is scope for abuse. While it is not possible to accept the proposition that Government should divest itself of all regulatory functions and powers of control, it appears that it would be desirable for each Ministry/Department to undertake a review of the regulatory functions which are its responsibility and also examine whether all of them are necessary and whether the manner of discharge of those functions and of the exercise of powers of control are capable of improvement. We recommend that such a review be made.

6.6.3. (iii) *Much scope for personal discretion in the exercise of powers vested in different categories of Government servants.*

Discretionary powers are exercised by different categories of Government servants all of whom are not endowed with a high sense of dedication and integrity in equal measure. There is scope for harassment, malpractices and corruption in the exercise of discretionary powers. While we recognise that it would not be possible to completely eliminate discretion in the exercise of powers it should be possible to devise a system of administration which would reduce to the minimum, even if there is a certain seeming loss of perfection, the need for exercise of personal discretion consistently with efficiency and speedy disposal of public business. Even so there would be quite a considerable area where exercise of discretion could not be eliminated. It will, therefore, be necessary to devise adequate methods of control over exercise of discretion. In the more advanced countries various methods of such control have been devised. We recommend that this should be studied and a system of control should be devised keeping in view the needs of the situation, the difficulties that arise on account of the vastness of our country and the basic principles which are enshrined in our Constitution and jurisprudence.

6.6.4. (iv) *Cumbersome procedures of dealing with various matters which are of importance to citizens in their day-to-day affairs.*

The citizens of this country have to seek the help of administration in various matters which are of importance to their day-to-day affairs. Due to various reasons the current procedures are such as make it really difficult for the citizens to get quick relief. Besides, quite a big section of our citizens are not trained or equipped to say what they want clearly and precisely. This is partly due to lack of awareness of the rights and responsibilities and of the

procedures of Government. Therefore, they find it necessary to have recourse to touts and intermediaries. We recommend that a serious attempt should be made to educate the citizens in regard to these matters and also make suitable arrangements which would provide an easy access to administration without the need of the intervention of touts and intermediaries.

6.7. It is not possible for us to go into these matters in any great detail as it would have meant a very detailed study of the working of various Ministries and Departments. Apart from this it would have been very much out of scope of our terms of reference to undertake such a study. We, therefore, leave these questions to be examined by the respective Ministries/Departments who, we hope, would assign high priority to these matters.

6.8. We have found that low-paid Government servants are entrusted with the responsibilities of inspection, supervision, grant of licences, in matters like gradation of commodities, inspection of mines, supervision of implementation of labour laws and awards, various kinds of licensing, passing of goods at Customs etc. While the general increase in the salaries of Government servants is a matter to be decided in the light of national economy and the tax paying capacity of the people, it may be worthwhile in the country's interest to examine whether the categories of officials who have to exercise considerable discretion in matters relating to taxation, issue of valuable permits and licences, or otherwise deal with matters which require high degree of integrity, should not be given special attention regarding status and emoluments. Thus appraisers and examiners in the Customs, Inspectors in the Excise and the Income Tax Departments, supervisory personnel in the Central Public Works Department, Railways and Postal Departments and analogous categories should be made to feel that the improvement of their condition is a matter of special concern to the Government. We also feel that undue economy in the number of officers is not desirable. We were told by a number of witnesses that where any cadre consists of both direct recruits and persons promoted from subordinate services, the standard of integrity of direct recruits is comparatively higher. While we are unable to endorse any such sweeping generalisation, we feel that this aspect requires to be looked into carefully and if the general impression has any basis in truth it may be necessary to review their respective proportions from this point of view

6.9. Even more important than improvement in the scales of salaries is the need to provide housing, medical facilities for the Government servant and his family, and assistance towards the education of children, especially of those who have to serve far

away from their own States. The example of the Railways which are establishing hostels in suitable centres of education, where the sons and daughters of the railway employees can be maintained at charges which can be reasonably borne by the parents, deserves to be followed by other Central Departments.

6.10. We consider that the provision of housing and wherever possible, in colonies, will be a valuable aid in the promotion of integrity. If officials of the Income-tax, Customs and Excise Departments are forced to find their own accommodation in such big cities as Bombay, Calcutta and Madras, they become obliged to landlords and their agents. We would earnestly suggest to Government to undertake the provision of housing on an adequate scale, and till then to have a sufficient number of requisitioned accommodation to accommodate all their staff. When Government servants of the same department or allied departments live in a colony, it is not easy to indulge in unsocial practices without being noticed or talked about. Almost every head of Department who met us impressed upon us the need and the salutary effects of adequate housing.

6.11. In the Ministries/Departments dealing with the economic affairs of the country and those which have to spend large amounts of money on construction and purchases the temptation to stray away from the path of integrity is greater and it is here that the undesirable type of contact men and touts flourish. We consider that in these Ministries steps should be taken immediately to compile informal codes of conduct for the different categories of Government servants regarding participation in entertainment and availing themselves of other facilities from those who may have or are likely to have official dealings with them and suitable procedures should be evolved to encourage voluntary adherence to those codes. The example must be set by superior officers.

6.12. Every officer of superior status under whom a number of Gazetted officers are working directly should take steps to ascertain personally whether there is any reason to doubt or suspect the integrity of any of these officers. This would bring the superior officers in greater contact with their junior officers and this would help in ensuring that they do not stray from the path of virtue.

6.13. Some of the other more important preventive measures are:—

(i) Great care should be exercised in selecting officers for appointment to high administrative posts. Only those whose integrity is above board should be appointed to these posts.

(ii) At the time of making selections from non-gazetted to gazetted ranks for the first time all those whose integrity is doubtful should be eliminated.

(iii) Every officer whose duty it is to sponsor a name for promotion should be required to record a certificate that he had seen the record of service of the Government servant and he is satisfied that the Government servant is a man of integrity.

(iv) Exigencies of public service require grant of extension or re-employment of Government servants who have attained the age of superannuation and are about to retire or retired. Such servants are also employed in the public sector undertakings. We recommend that an essential condition for the grant of extension or re-employment should be that the person concerned has had a good **reputation for integrity and honesty. If this condition is not fulfilled** the person concerned should not be considered eligible for grant of extension or re-employment.

(v) A good deal of harm is done by vague talk about corruption. This can be reduced only if there are agencies which a person with genuine complaint can approach for redress, with the assurance that he will be fully protected and that prompt and adequate action will be taken where found justified. The Central Vigilance Commission and the Vigilance Organisation should be able to meet this need in matters relating to complaints of corruption, harassment *etc.* We wish to emphasise that it is essential that *bona fide* complainants should be protected from harassment or victimisation. The Ministry of Home Affairs should consider itself as having a special responsibility in this regard.

(vi) Enquiry-*cum*-Reception Offices should be established in all Ministries/Departments which deal with licences/permits and to which members of the public frequently go. All visitors should enter their names and the purpose of their visit in a register to be kept at the Reception Office.

(vii) Steps should be taken to prevent sale of information. One of the causes of this type of corruption is the undue secrecy maintained in regard to matters in respect of which it is not necessary to do so. A clear distinction should be made as to what information should be treated as 'secret' and what should be made freely available to the public. Any member of the public who wants to have information of the latter category should be able to approach some specified officer in each Ministry/Department undertaking for that purpose and get what he wants.

6.14. We are told that on occasions difficulties are experienced in obtaining the necessary forms required to be submitted for obtaining licences/permits etc. This difficulty is likely to arise more in matters like applications for Taccavi, Cement and Steel etc. Except in regard to the Union Territories such difficulties are not likely to

arise in connection with matters dealt with by the Central Government. It is desirable to remove such difficulties to whatever extent possible they may exist. We, therefore, recommend that arrangements should be made for easy supply of forms whether free or on payment.

6.15. At present, there is a column in the annual confidential report regarding every public servant where the superior officer has to comment on his integrity. But under the present practice it is difficult for him to fill this column even when he has reasonable grounds to be doubtful of the integrity of his subordinate in the absence of definite proof. So it is usual to say something non-committal. We recommend that in cases where the reporting officer is not in a position to make a positive report about integrity he should leave the column blank and submit a secret report if he has reasons to doubt the integrity of the officer on whom he is reporting stating the reasons for his suspicions. The Government or the heads of Department who receive such secret reports should take suitable steps to find out the correctness or otherwise of the report.

6.16. After very careful consideration we gave a report on 20-12-63 on the question of Government servants accepting commercial employment after retirement. Our report is in Annexure V. We have recommended that there should be a complete ban against Government servants accepting private commercial and industrial employment for two years after retirement. We considered that such strict restriction was necessary to dispel any impression that there is any sort of link or partnership or community of interest or collusion between the higher echelons of administration and the private corporate sector as such an impression, whether justified or not, not only affects the prestige of the Civil Service but also affects the social climate.

6.17. The adoption of preventive measures against those who habitually corrupt public servants will strike at the evil from the other end. We wholeheartedly endorse the view that the existence of large amounts of unaccounted black money is a major source of corruption. This money is obtained by various ways, *viz.* tax evasion, smuggling, speculation in immovable property and shares and stocks, receiving fees and remuneration partly or wholly in cash without showing them in the accounts, trading in licences and permits, over-invoicing and under-invoicing etc. It has not been possible for us to examine these matters in any great detail. But we venture to make a few suggestions.

6.18. We consider that there is no justification to treat income-tax reports and assessments as secret. We notice that the secrecy provisions have been somewhat liberalised in the Income-tax Act, 1961, but not far enough. In some other advanced countries income-

tax returns and assessments are not treated as secret and are published. We consider publication of such returns and assessments would have a salutary effect on those persons in business and professions who are inclined to take advantage of the secrecy provisions to evade income-tax. They are sensitive about their reputation and the amount of income-tax paid is an index of their standing in their business or profession, they would be strongly dissuaded from lowering themselves in the estimation of their colleagues or given a handle to their competitors, if they are found to be assessed to tax on an income less than what they are believed to be earning. We are glad to note that some provisions in this respect are being made in the Finance Bill, 1964.

6.19. To buy and sell properties at prices much greater than those recorded in the conveyance deeds has become a common method of cheating the Central Government of income-tax and other taxes and the State Government of the stamp duty and as a convenient method of transferring black money. If, in some manner, the Central and State Governments, or some special corporations set up for the purpose can be empowered to step in and acquire such properties at the stated value, or even at a small premium when it is considered that the properties have been deliberately under-valued, it will strike a blow against black money.

Similarly, the habit of charging "pugri" or "premium" for renting houses and flats is a similar source of corruption for which some drastic steps have to be taken. We understand that this illegal "pugri" is taken not only by the owners of houses and flats, but also by the tenants who continue to hold on to them nominally and sublet to others.

6.20. We have already mentioned the existence of 'contactmen' and 'touts'. Obviously these do not include genuine representatives of commercial and industrial firms. In this regard our recommendations are:—

(i) No official should have any dealings with a person claiming to act on behalf of a business or industrial house or an individual, unless he is properly accredited, and is approved by the Department, etc. concerned. Such a procedure will keep out persons with unsavoury antecedents or reputation. There should, of course, be no restriction on the proprietor or manager, etc., of the firm or the applicant himself approaching the authorities.

(ii) Even the accredited representatives should not be allowed to see officers below a specified level—the level being

specified in each organisation after taking into consideration the functions of the organisation, the volume and nature of the work to be attended to, and the structure of the organisation. However, care should be taken to limit permissible contacts to levels at which the chances of corruption are considered to be small. This would often mean that no contact would be permitted at the level of subordinate officers.

(iii) There should be a system of keeping some sort of a record of all interviews granted to accredited representatives.

(iv) There should be a fairly senior officer designated in each Department to which an applicant etc., may go if his case is being unreasonably delayed.

It is necessary that a proper procedure should be devised in consultation with the Central Vigilance Commission for accrediting and approval by the Department. Before granting approval the antecedents of the person proposed to be accredited should, if possible, be verified. In any case no person who is not definitely employed by an established undertaking who will be responsible for his contact and actions should be approved.

6.21. It is also desirable that officers belonging to prescribed categories who have to deal with these representatives should maintain a regular diary of all interviews and discussions with the registered representatives whether it takes place in the office or at home. The general practice should be that such interviews should be in the office and if it takes place at home, reasons should be recorded. Any business or discussion which is not so recorded should be deemed to be irregular conduct, of which serious notice should be taken by the superiors.

6.22. Companies and businessmen should be obliged to keep detailed accounts of the expenditure in their expense account. Normally it should be the income-tax officers who should scrutinise those accounts. But whenever an income-tax officer feels that amounts have been spent for entertaining high officials, or other purpose for which satisfactory explanation is not forthcoming, it should be his duty to refer the matter to the Chief Vigilance Officers in the departments concerned. If there is any legal difficulty for passing on such information under the present law, it should be removed. It is through the close cooperation of the Income-tax Department, Vigilance Officers and Central Bureau of Investigation that effective results can be obtained. Public knowledge of the existence of such cooperation will be a good preventive measure.

6.23. Intelligent and effective propaganda can play a great part in fight against corruption. Such propaganda should on the one hand avoid giving an exaggerated idea that a particular case is more general than it is, and on the other it should convince the public that the authorities have no sympathy with the corrupt officials and are determined to put them down. It will be desirable to create a special cell in the Home Ministry consisting of representatives from All India Radio, Press Information Bureau, and the Films Division to evolve effective propaganda and publicity measures. Representatives of the press may also be associated. The general principles to be followed are:—

There should be no publicity at the time of investigation or during departmental inquiry, but effective and widespread publicity to cases resulting in dismissal, removal or compulsory retirement should be given. In cases of prosecutions before courts, important cases will in the ordinary course be given publicity by the press. What is required is to ensure that true facts and arguments are available to those who edit the cases. The Cell proposed should offer to provide the necessary assistance. A periodical summary, say once in three months, of important cases dealt with either by departmental inquiries or prosecutions in courts should be supplied to the press. It may also be hoped that the report of the Vigilance Commission which will be placed before Parliament will attract wide publicity.

6.24. The most important preventive measure is of course the evolution of a social climate in which no public servant or a person holding a public office, unless he is wholly devoid of moral sense, will be tempted to stray from the path of integrity and resort to corruption. This is one of the terms of our reference and is being dealt with in a separate section.

SECTION 7

LAW AND PROCEDURE RELATING TO CORRUPTION

7.1. The fourth term of reference reads as follows:

> "To suggest changes in the law which would ensure speedy trial of cases of bribery, corruption and criminal misconduct, and make the law otherwise more effective."

7.2. The substantive law relating to bribery, corruption and criminal misconduct is contained in the Indian Penal Code and the Prevention of Corruption Act, 1947, the procedural law in the Criminal Procedure Code, Criminal Law Amendment Act, 1958 and some special rules of evidence relating to such cases in the Prevention of Corruption Act. The working of the relevant provisions of these enactments in prosecutions in courts and also at the stage of investigation have disclosed that certain changes in the law are required in order to ensure speedy trials and more effective results. We have examined the existing provisions in the light of experience gained in numerous cases, and also in the context of social changes and economic objectives which have created new problems.

Amendments to the Indian Penal Code

7.3. The Indian Penal Code was enacted in 1860, and though it has been amended here and there, its main structure has continued intact during the last 100 years and more. It is an admirable compilation of substantive criminal law, and most of its provisions are as suitable today as they were when they were formulated. But the social and economic structure of India has changed to such a large extent, especially during the last 17 years of freedom, that in many respects the Code does not truly reflect the needs of the present day. It is dominated by the notion that almost all major crimes consist of offences against person, property or State. However, the Penal Code does not deal in any satisfactory manner with acts which may be described as social offences having regard to the special circumstances under which they are committed, and which have now become a dominant feature of certain powerful sections of modern society. Such offences may broadly be classified into:

(1) Offences calculated to prevent or obstruct the economic development of the country and endanger its economic health;

(2) Evasion and avoidance of taxes lawfully imposed;

(3) Misuse of their position by public servants in making of contracts and disposal of public property, issue of licences and permits and similar other matters;

(4) Delivery by individuals and industrial and commercial undertakings of goods not in accordance with agreed specifications in fulfilment of contracts entered into with public authorities;

(5) Profiteering, black-marketing and hoarding;

(6) Adulteration of foodstuffs and drugs;

(7) Theft and misappropriation of public property and funds; and

(8) Trafficking in licences, permits, etc.

7.4. Some of these offences have been made punishable by special enactments. We are of the opinion that it is desirable to add a new chapter to the Indian Penal Code bringing together all the offences in such special enactments and supplementing them with new provisions so that all social offences will find a prominent place in the general criminal law of the country. It is a matter for the Government to consider whether this work should be undertaken by a special legal committee or referred to the Law Commission.

7.5. Meanwhile, some sections of the Indian Penal Code require immediate amendment in order to deal effectively with corruption.

7.6. Section 21 defines "public servant". Twelve categories of public servants have been mentioned, but the present definition requires to be enlarged. The ninth category describes a large variety of officers charged with the performance of different kinds of duties relating to pecuniary interests of the State. The last sentence of this category, namely, "every officer in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty" should be put as a general definition. After the word "government", the words "local authority", "public corporation", or "government company" should be added. The words "engaged in any trade or industry" may also be deleted from the twelfth clause of Section 21 as these words have a restrictive effect. It should also be made clear that all Ministers, Ministers of State, Deputy Ministers, Parliamentary Secretaries and members of local authorities come under the definition of 'public servant'. A further category should be added to include all persons discharging adjudicatory functions under any Union or State Law for the time being in force. We also consider it necessary to include the following categories within the definition of the term 'public servant' :—

President, Secretary and all members of Managing Committee of a registered Co-operative Society;

Office-bearers and employees of educational, social, religious and other institutions, in whatever manner established, which receive aid in any form from the Central or State Governments.

7.7. We, therefore, recommend that Section 21 of the Indian Penal Code may be amended as stated below:—

"The words 'public servant' denotes every person in the service or pay of the Government, a local authority or a Corporation established by a Central or State Act or a Government Company as defined in Section 617 of the Companies Act, 1956 and/or who is remunerated by fees or commission for the performance of any public duty and includes a person falling under any of the descriptions hereinafter following, namely:—

First.—Every Minister including Ministers of State, Deputy Ministers and Parliamentary Secretaries holding such office in the Union or State Governments.

Second.—Every Commissioned Officer in the Military, Naval or Air Forces (of India).

Third.—Every Judge including any person entrusted with adjudicatory functions in the course of enforcement of any law for the time being in force.

Fourth.—Every officer of a Court of Justice including a liquidator, receiver and commissioner whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorised by a Court of Justice to perform any of such duties.

Fifth.—Every juryman, assessor or member of a panchayat assisting a Court of Justice or public servant.

Sixth.—Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority.

Seventh.—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement.

Eighth.—Every officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offences, to

bring offenders to justice, or to protect the public health, safety, or convenience.

Ninth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of the Government or to make any survey, assessment or contract on behalf of the Government or to execute any revenue process, or to investigate, or to report, on any matter affecting the pecuniary interests of the Government or to make, authenticate, or keep any document relating to the pecuniary interests of the Government or to prevent the infraction of any law for the protection of the pecuniary interests of Government.

Tenth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district.

Eleventh.—Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election.

Twelfth.—Every person who is a President, Secretary or other office-bearer or a member of the managing committee of a registered Cooperative Society.

Thirteenth.—Every person who is an office-bearer or an employee of educational, social, religious and other institutions, in whatever manner established, which receive aid in any form from the Central or State Governments.

Fourteenth.—Every member of such local authorities as may be notified in this behalf by the Central or a State Government.

ILLUSTRATION

A Municipal Commissioner is a public servant.

Explanation 1.—Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2.—Wherever the words "public servant" occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

Explanation 3.—The word "election" denotes an election for the purpose of selecting members of any legislative, municipal or other

public authority, of whatever character, the method of selection to which is by, or under, any law prescribed as by election.

7.8. Chapter IX deals with offences by or relating to public servants. So far as the Government servant is concerned, Sections 161 to 171 appear to be exhaustive. But a glaring defect of this Chapter is that the giving of a bribe and other forms of corrupting public servants are not listed as substantial offences by themselves, but come only indirectly in Section 165A as abetment of the taking of a bribe by a public servant. Under the existing law, namely Section 165A read with Section 108, Explanation 2, it may not be necessary that the act abetted should be actually committed, or in other words, that the public servant must accept the bribe, in order that the bribe giver may be convicted of abetment of bribery. But it would at least require proof that the bribe giver had either aided or directly instigated the public servant to take the bribe, or had conspired with another person so that the latter might approach the public servant with the offer of a bribe. All these complications under the present law should be removed making the offering of bribe a substantive offence and not merely an abetment as at present. We feel that this lacuna should be remedied so that where it can be proved that a person has attempted to corrupt a public servant, the former should be considered guilty even though the public servant had, in fact, not been corrupted. We, therefore, recommend that a new Section be inserted as Section 161A:

"Whoever offers or attempts to offer to any public servant or to any other person on his behalf with or without the knowledge of the public servant, any gratification whatever other than legal remuneration, as a motive or reward for the public servant for doing or forbearing to do any official act, or for showing or forbearing to show in the exercise of his official functions favour or disfavour to himself or any other person, or for rendering or attempting to render any service or disservice to any person with the Central or a State Government, or Parliament or the Lagislature of any State, or any local authority, university, State undertaking, public corporation or Government company or any other authority or with any public servant as such shall be punished with imprisonment of either description for a term which may extend to three years, or with fine or with both."

7.9. The offences under Chapter IX of the Indian Penal Code relating to bribery and corruption should be made nonbailable. The Central Bureau of Investigation should have jurisdiction to investigate these offences and they should be tried by special court.

Amendments to the Prevention of Corruption Act

7.10. Section 4(1) of the Prevention of Corruption Act provides that where it is proved that an accused person has accepted or obtained, or has agreed or attempted to obtain, either himself or for any other person, any gratification or any valuable thing, it shall be presumed that it was received or attempted to be received as a motive or reward such as is mentioned in Section 161 or Section 165 of the Indian Penal Code, as the case may be, without or for consideration which was inadequate. Section 4(2) of the Act creates a similar presumption in respect of Section 165A of the Indian Penal Code.

7.11. Section 5 of the Act creates the offence of criminal misconduct which includes the habitual commission of offences under Sections 161 and 165 of the Code. We are recommending a recasting of Section 5 of the Prevention of Corruption Act. It is, therefore, necessary that the presumptions enunciated in Sections 4(1) and 4(2) should be made available in respect of offences under Section 5(1) and also sub-section 5(2) by including the offences under Section 5 within the purview of Section 4.

7.12. Section 5 of the Prevention of Corruption Act requires a number of changes. The words "in the discharge of his duty" have been used in a manner such as to qualify sub-clauses (a), (b), (c) and (d). Such a restriction seems to be unwarranted as the same offence may be committed by a public servant who merely acts as an intermediary such as by offering to procure a job through his influence with an official appointing authority who alone will act in the discharge of his duty in making the appointment. These words "in the discharge of his duty" should be deleted from the Section in order that such an intermediary may be brought within its purview.

The structure of the Section may be altered as suggested below. We are of the opinion that the provisions of Section 5(1) should be further expanded by the addition of a new clause which is set out below as clause (c) of Section 5. At the same time some words should be used to show that this particular type of criminal misconduct, though not in the discharge of the duty of a public servant, is related to the duty of a public servant. This may be necessary to distinguish such criminal misconduct from criminal misconduct in general which may come under the general law of crimes.

A further sub-section may be inserted in Section 5 to deal with those who habitually corrupt public servants or abet such corruption habitually.

While Section 511 of the Indian Penal Code provides for punishment of attempts to commit offences stated in the Code there is no

corresponding provision in the Prevention of Corruption Act to deal with attempts to commit offences under Clauses (c) and (d) of sub-section (1) of the existing Section 5 of the Prevention of Corruption Act. We, therefore, recommend that another sub-section may be added as sub-section (3).

We therefore, recommend that Section 5 of the Prevention of Corruption Act may be amended as follows:

Criminal misconduct by a public servant in relation to his own duty or that of any other public servant.

5(1) Whoever being a public servant

(a) habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person, any gratification (other than legal remuneration) as a motive or reward such as is mentioned in Section 161 of the Indian Penal Code, or

(b) habitually * accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned, or

(c) dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person so to do, or

(d) by corrupt or illegal means or by otherwise abusing his position as public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage, or

(e) himself or any other person on his behalf is in possession, or has been at any time during his period of office in possession of pecuniary resources or property disproportionate to his known sources of income, for which he cannot satisfactorily account,

commits the offence of criminal misconduct in relation to the duty of a public servant and shall be punished with imprisonment for a

term which shall not be less than one year, but which may extend to seven years and shall also be liable to fine;

Provided that the court may, for any special reasons recorded in writing, impose a sentence of imprisonment of less than one year.

(2) Whoever habitually commits an offence punishable under Section 161A, 162, 163 or Section 165A of the Indian Penal Code shall be punished with imprisonment *of either description for a* term which shall not be less than 1 year, but which may extend to 7 years, and shall also be liable to fine;

Provided that the court may, for any special reasons recorded in writing, impose a sentence of imprisonment of less than 1 year.

(3) Whoever attempts to commit an offence under Clauses (c) and (d) of sub-section (1) of this Section or an offence under sub-section (2) of this Section shall be punished, with imprisonment of any description which may extend to three years or with fine or with both.

(4) Where a sentence of fine is imposed under sub-section (1) or (2) of this Section, the Court, in fixing the amount of fine, shall take into consideration the amount or the value of the property which the accused person has obtained by committing the offence or where the conviction is for an offence under Clause (c) of sub-section (1) of this Section, the pecuniary resources or property referred to in that sub-section".

7.13. Regarding Section 5A, it provides:

That no Police Officer below the rank of an Assistant Commissioner of Police, a Superintendent of Police, or a Deputy Superintendent of Police shall investigate any offence punishable under Section 161, or Section 165A of the Indian Penal Code, or under sub-section (2) of Section 5 of this Act, without the order of a Presidency Magistrate or a Magistrate of the first class. There is a proviso to this Section which enables the Inspector General of Police, Special Police Establishment to authorise a Police Officer of the Delhi Special Police Establishment not below the rank of an Inspector of Police to investigate an offence under this Act in certain circumstances, without the order of a Magistrate which is ordinarily required. The Special Police Establishment have occasionally found it difficult to obtain the sanction of the Magistrate to entrust the investigation to an officer below the specified rank. The Supreme Court has held in State of Madhya Pradesh *Vs.* Mubarak Ali (AIR 1959—Supreme Court 707) that the safeguards provided in Section 5A of the Prevention of Corruption Act should be strictly complied with, and that a magistrate should allow the case to be

investigated by a subordinate police officer only when he finds it necessary to do so. The number of Deputy Superintendents of Police in the Special Police Establishment is limited at present, and they cannot cope with the increasing workload which has increased from 1946 to 1962 from 384 to 612 regular cases, and from 435 to 659 preliminary inquiries. The Inspectors in the Special Police Establishment are selected after a very careful examination of their record. It is, therefore, recommended that Section 5A be amended so as to authorise all Inspectors of the Special Police Establishment and such officers of similar rank of the Anti-Corruption Agencies of the State Governments as may be specified by the respective State Governments by general or special orders to make investigations without obtaining the permission of a Magistrate.

Criminal Procedure Code

7.14. We considered carefully the amendments required to be made to the Criminal Procedure Code which would help in dealing with cases of corruption more expeditiously. We recommend that the following amendments may be made:

7.15. Section 4(p) of the Code defines an officer in charge of a Police Station and empowers that officer to exercise various powers under the Code. As the law stands at present, the officers of the Special Police Establishment cannot exercise these powers unless they are so empowered. The Bombay High Court in a judgment on 12th April, 1954, pointed out certain legal disabilities of a Special Police Establishment officer conducting an investigation. The Government of India wrote to the State Governments asking them to issue a general order empowering the Special Police Establishment to exercise powers of an officer in charge of a police station. All except one State have issued the notification. It is, therefore, recommended that Section 4(p) may be amended to include officers of the Special Police Establishment of the rank of a Sub-Inspector, an Inspector and a Deputy Superintendent of Police. Or in the alternative a new sub-section (3) may be added in Section 5 of the Delhi Special Police Establishment Act to read as under:—

"(3) Any member of the said establishment of or above the rank of sub-inspector may, in discharging his functions under sub-section (2) in any area in a State, exercise any of the powers of the officer in charge of a police station in the area in which he is for the time being and in so exercising such powers, shall be deemed to be an officer in charge of a police station discharging the functions of such an officer within the limits of his station."

7.16. Section 94 of the Criminal Procedure Code empowers an officer incharge of a police station to call upon, during the investiga-

tion, any person in whose possession or power, any document or other thing relevant for the inquiry is believed to be, to attend and produce it at the time and place stated in the summons or order. This power is also available in respect of Banks which could also be required to produce their books of accounts. This, however, does not enable the investigating officer to require the Bank to furnish certified copies. Secondly the power to call upon Banks to furnish this information could be exercised only when an investigation under the Code of Criminal Procedure is undertaken. But the Special Police Establishment and the State Anti-Corruption Agencies are often required to collect information in secret before registering a formal case. The powers to collect such information even before registering a regular case will all the more be necessary in view of our recommendation that possession of assets disproportionate to known sources of income should be made a substantive offence. In view of these considerations we recommend that Section 94 and Section 5 of the Bankers' Book (Evidence) Act should be suitably amended to enable the officers of the Special Police Establishment and/or of the State Anti-Corruption Agencies and/or any other officer notified in this behalf by general or special order by the Central or a State Government, as the case may be, to obtain certified copies of the accounts and of all other documents relevant to the entries in the books of accounts relating to any person in respect of whom an inquiry or investigation is being made whether under the provision of the Code of Criminal Procedure or any other law or rule for the time being in force or in any other manner whatever.

7.17. Section 222(2) of the Code of Criminal Procedure, does not, as it is at present worded, apply to trial for offences under Section 5(1)(c) of the Prevention of Corruption Act. Section 234 of the Code of Criminal Procedure which applies to such trials limits the number of instances of misappropriation of the same kind committed within the space of 12 months from the first to the last of such offences. This leads to multiplicity of proceedings. Besides, Section 222(2) speaks only for "criminal breach of trust or dishonest misappropriation of money". It does not include dishonest misappropriation of movable property other than money. We, therefore, recommend that Section 222(2) of the Code of Criminal Procedure may suitably be amended so as to cover offences under Section 5(1)(c) of the Prevention of Corruption Act and dishonest misappropriation of movable property other than money.

7.18. According to Section 251A of the Code of Criminal Procedure, in cases tried by a Magistrate, he is required to satisfy himself that the documents referred to in Section 173 of the Code have been furnished to the accused. Section 251A was added in 1955. One

of the reasons for this addition was that the accused should not be taken by surprise. A similar obligation is not cast on the accused to furnish a list of witnesses and of documents which he proposes to rely upon in his defence. It should be noticed that according to Section 211 of the Code of Criminal Procedure, the accused shall, at once on the charge being framed in a commitment proceedings be required to give orally or in writing a list of the persons (if any) whom he wishes to be summoned to give evidence in his trial. Sub-section (2) of Section 211 provides for submission of a further list of witnesses at a later date. We consider that disposal of cases would be expedited if the accused is similarly obliged to give a list of witnesses and documents immediately after the charge is framed under Section 251A. Sub-section (6) of Section 251A may, therefore be suitably amended to make it obligatory for the accused to file a list of witnesses and documents he proposes to rely upon in his defence. We have, however, no objection if he gives such a list at a subsequent stage provided it is done immediately on the closing of the evidence for the prosecution.

7.19. A proviso may be added to sub-section (1A) of section 344 of the Code of Criminal Procedure to the effect that the mere fact that a party to the proceedings intends to move a higher Court in revision regarding the legality, propriety or correctness of an order passed by the court, shall not be a ground for adjournment or postponement of trial or inquiry before such court.

7.20. A proviso may be added to sections 435 to 439 of the Code of Criminal Procedure to the effect that the higher courts while exercising revisional jurisdiction in respect of cases pending in the inferior courts shall not stay proceedings in the inferior courts without giving a reasonable opportunity to the opposite party to show cause against such action and without recording reasons to show that it is necessary in the interest of justice to stay proceedings.

7.21. Section 435 of the Criminal Procedure Code empowers the superior courts to call for records from subordinate courts.

The production of such records necessarily causes considerable delay. While it is admitted that this power is necessary, the delay can be considerably minimised if the superior court hears the opposite party and enables it to convince the court that in the circumstances of the cases the calling for the record is not necessary, or that the purpose could as well be served by filing certified copies of the relevant portions of the record.

7.22. Under Section 492, only the State Government is empowered to appoint public prosecutors. The Delhi Special Police Establishment have a prosecuting staff of their own. These officers cannot

appear in courts unless notified as Public Prosecutors by the State Governments. Occasionally difficulties are experienced in having these officers so notified. We therefore consider that Section 492 should be amended to empower the Central Government also to appoint Public Prosecutors, in any case or in a specified class of cases. This will facilitate the conduct of cases of corruption on the part of officers of the Central Government. Consequential amendments may be made in Section 495.

7.23. Section 540A(2) may be so amended as to enable the court, in its discretion, to proceed with the trial or inquiry and to record evidence even in the absence of the accused subject to the right of the accused regarding cross-examination of the witnesses being suitably protected.

7.24. Section 198B was added to the Code of Criminal Procedure by Act 26 of 1955. It is a special provision for prosecuting the offence of defamation other than by spoken words against the President, Vice-President, Minister and other public servants in respect of their conduct in the discharge of public functions. It empowers the public prosecutor to institute proceedings in respect of such offences. We state below some amendments that are necessary to make this provision more effective.

(a) The combined effect of sub-section (3) and sub-section (13) of Section 198B is that the consent of the person defamed would be necessary to enable the public Prosecutor to institute such a proceeding. We consider that as a rule whenever a public servant or other persons hold such high offices as have been mentioned in the Section are defamed it should be open to Government to compel the defamer to prove his allegations. Unwillingness on the part of the person defamed to take the matter to Court reduces the utility of this provision. There should be no disinclination to give such a consent. We consider that to improve the social climate the requirement of the consent of the person defamed should be dispensed with by deleting sub-section (13) of section 198-B.

(b) The words "other than the offence of defamation by spoken words" occurring in sub-section (1) excludes defamatory statements made in public meetings. Such statements cause equal, if not more, damage to the reputation of the person defamed and have also a wider publicity. We consider that these restrictive words should be removed.

(c) Under the present law the complainant has to prove that he has been defamed. This enables the accused to virtually put the complainant in the dock. The accused can also take shelter under the various exceptions to Section 499 of the Indian Penal Code.

Except in cases where the accused pleads and proves truth as justification under the first exception to Section 499 the reputation of the person defamed remains damaged. We, therefore, recommend that the burden of proving the truth of the imputation should be squarely cast on the accused. The accused in such cases should also be required to prove that he acted in good faith and in public interest.

Miscellaneous

7.25. Section 5 of the Imports and Exports (Control) Act 1947, provides for imprisonment upto 12 months and fine. There have been instances where the accused by pleading guilty have escaped with very light punishment. Considering that the Delhi Special Police Establishment alone had investigated between 1958-1962, 451 cases of obtaining licences by resorting to malpractices and that the value of these licences was Rs. 2,38,24,142/- we are of the opinion that unless severe punishment is meted out to breaches of the Imports and Exports (Control) Act, 1947, there could be no significant improvement in this Sector. We therefore recommend that Section 5 of the Act may be so amended as to raise the punishment provided for thereunder to two years' R.I. and also to make it obligatory on the courts to pass a minimum sentence of six months imprisonment except when the Courts have special reasons to inflict a lesser sentence. A provision may be made in the Act on the lines of Section 10 of the Essential Commodities Act, 1955, to the effect that the principal office-bearers would also be liable for punishment for offences committed by the Company or partnership concern or any incorporated body or an association of individuals and that the burden of proving their innocence should lie on them.

Essential Commodities Act

7.26 Sections 7 and 8 of the Act may be so amended as to add the words "or any direction given under any order made thereunder" after the words "any order made under section 3" therein.

Constitutional Amendment

7.27. We consider that it would not be an unreasonable classification to treat departmental proceedings involving charges of bribery, corruption or lack of integrity in a separate category and provide for a simplified procedure. We also consider that in such cases, the jurisdiction of courts including the power of the Supreme Court and High Courts under Article 32 and 226 respectively of the Constitution should be limited. We, therefore, recommend that another clause somewhat in the following terms may be added as clause (4) to Article 311.

"*Notwithstanding anything contained in* Parts III, IV, VI and XIV of the Constitution, Parliament may by law regulate all matters relating to maintenance of integrity and honesty in the services and posts under the Union and States *including the jurisdiction of* Courts in respect of such matters."

We *further recommend that the power to legislate in* this behalf should be added as an item in List I of Schedule VII of the Constitution.

7.28. We also recommend that by suitable legislation power to summon and compel the attendence of witnesses and production of documents should be conferred on the inquiring authorities who are *appointed to hold inquiries in departmental proceedings.*

7.29. We find that in certain special enactments such as the Central Excise and Salt Act, 1944 provision is made prescribing a period of limitation for instituting a suit, prosecution or other legal proceedings in respect of anything done or ordered to be done under the other provisions of such enactments. In such cases the period of limitation starts running from the date of accrual of the cause of action or from the date of the act or order complained of. We consider that there is no justification for prescribing a period of limitation at least in respect of matters which involve allegations of bribery and corruption or lack of integrity. We, therefore, recommend that the need for continuing such provisions particularly in respect of matters involving bribery and corruption and lack of integrity should be re-examined and it should be considered whether in respect of such matters the period of limitation may not altogether be dispensed with. If for any reason it is not possible to do so, it should be considered whether the period of limitation could be enlarged *and also made to run from the date of* knowledge of the act or order complained of.

SECTION 8

GENERAL RECOMMENDATIONS

8.1. We have made some detailed and specific recommendations in regard to the following:—

(1) Directorate General of Supplies and Disposals.

(2) Directorate General of Technical Development (Formerly Development Wing).

(3) Import and Export Organisations.

(4) Central Public Works Department.

(5) Income-tax Department.

(6) Customs and Central Excise Department.

(7) Central Corporate Undertakings.

Recommendations in regard to these are in Annexures VII to XIII.

8.2. We had dealt with preventive measures in Section 6 and have also made various suggestions in different parts of this report. We would like to deal with certain other matters of general importance in this Section.

8.3. We find that the Ministry of Home Affairs had examined the procedure to be adopted in dealing with anonymous complaints and issued comprehensive instructions on 27th July 1962. The instructions issued strike a balance between the view that anonymous complaints should be ignored and the view that they should not be ignored.

8.4. We examined the procedure followed in regard to placing a Government servant under suspension. The relevant rules relating to control and discipline enabled the Central Government to place a Government servant under suspension in cases where

(i) a disciplinary proceeding against him is contemplated or is pending; or

(ii) a case against him in respect of any criminal offence is under investigation or trial.

There was some doubt regarding the point whether a member of All India Service could be placed under suspension when a disciplinary proceeding against him is contemplated. That doubt has been removed by certain recent judicial pronouncements. In our

recommendations regarding control and discipline rules we have recommended suitable provisions. By another judgment pronounced in November, 1963 the Supreme Court declared that the power to suspend, as an interim measure, a member of the former Secretary of States Services vests only in the Central Government.

8.5. Placing of an officer under suspension has certain financial and other implications. We consider that some of the circumstances under which it would be appropriate to place a Government servant under suspension are—

(1) Cases where investigation whether by the Police or departmental authorities, has commenced regarding—

(a) any offence or conduct involving moral turpitude;

(b) corruption; embezzlement or misappropriation of Government money; possession of disproportionate assets; misuse of official powers for personal gain;

(c) serious negligence and dereliction of duty resulting in considerable loss to Government;

(d) allegations which, if proved, may result in dismissal, removal or compulsory retirement;

(2) wherever continuance in office will prejudice the investigation, trial or an inquiry (*e.g.* apprehended tampering with witnesses or documents);

(3) whenever it is decided to prosecute the Government servant for offences which, if proved, are likely to end in his conviction and consequent dismissal, removal or compulsory retirement from public service;

(4) desertion of duty;

(5) refusal or deliberate failure to carry out written orders of superior officers;

(6) where continuance in office is likely to subvert discipline in the office in which the public servant is working.

8.6. We recommend the following procedure relating to (a) granting sanction to prosecute a Government servant where such sanction is required under any provision of law; and (b) the manner of dealing with petitions for withdrawal of prosecutions already launched.

8.7. As regards the first, a procedure was settled in 1949 according to which in cases investigated by the Special Police Establishment and in which the sanction has to be accorded by the Central Government the Ministry of Home Affairs issues the sanction after

obtaining the concurrence of the Ministry which controls the service to which the public servant proposed to be prosecuted belongs. The substantive decision whether sanction should be accorded or not is taken by the administrative Ministry. It has now been provided that in all such cases the Central Vigilance Commission will advise the Ministry of Home Affairs whether sanction should be accorded or not. The power to accord such sanction has also been centralised and vested in the Ministry of Home Affairs. This new procedure will remove many of the difficulties that arose under the previous procedure.

8.8. But the more difficult question is the manner of dealing with requests for withdrawal of prosecutions already launched. There are no judicial pronouncements which furnish a guide regarding the principles that should be observed in such matters. It is not difficult to visualise cases where the question of continuing or withdrawing a prosecution may assume deserved or undeserved importance. It is also likely that various pressures may operate. We consider that it would not be desirable to leave such matters in a vague state of affairs. In our opinion some of the principles that should be observed are:—

(1) when once a case is put in a court it should be allowed to take its normal course;

(2) if in any case it becomes necessary to consider a petition for withdrawal such a petition should be disposed of on the advice of the Central Vigilance Commission, provided that

(a) the court has not commenced recording evidence;

(b) it is clear from the records that the competent authority had not examined the merits of the case before according sanction; and

(c) facts have come to light which would show that no offence had been committed by the accused.

But we would like to reiterate that departure from the normal principle of not entertaining petitions for withdrawal of prosecution after sanction has been accorded or the case has been put in court should be very exceptional.

8.9. We have examined the question whether a Government servant who has been convicted by a court of law should immediately be dismissed from service on such conviction, or the Government should wait till he has exhausted his remedies available under the law by way of appeal or revision. According to instructions now in force, he should be dismissed immediatelv on his

conviction. But where the advice of the Union Public Service Commission is required to be taken the latter prefers to wait till the final termination of the proceedings. It is obvious that a public servant who is convicted by a court cannot be allowed to function in his post. He has, therefore, to be removed from service or at least placed under suspension. No uniform rule without exceptions can be laid down. If the Government is legally advised that there is little chance of the conviction being reversed on appeal, immediate dismissal is certainly the best course. It may save the Government the subsistence allowance that has to be paid during suspension. On the other hand, if the legal advice is that there is a reasonable chance of the appeal being allowed, to continue the suspension would be preferable because in case the public servant succeeds in appeal he will have to be restored and paid his full salary and allowances.

In this connection, we would suggest that the question of consulting the Union Public Service Commission in respect of Government servants who have been convicted by courts of law may be re-examined. While in departmental proceedings, which are of a quasi-judicial nature, consultation with the Union Public Service Commission is a valuable safeguard the verdict of court of law is final so far as the Government is concerned unless it is reversed by a higher court. Therefore, in all cases of conviction, we recommend that the consultation may be dispensed with.

8.10. We found that in the Directorate General, Supplies and Disposals, the O&M Unit of the Directorate had undertaken a *post-facto* scrutiny of disposed of files to find out the nature of mistakes or irregularities that have occurred. We consider that this experiment could usefully be adopted in other organisations which deal with grant of contracts and licences, permits, assessment, collection and refund of taxes, etc.

8.11. Misutilisation and trafficking in licences has become a scandal. We were informed that except certain categories of import licences granted under the Export Promotion Schemes licenses are not transferable. Frequently enough licensees commit a breach of the conditions of non-transferability and proper utilisation. Systematic efforts should be made to discover such breaches. We, therefore, recommend that there should be a machinery for verification whether the conditions of the licenses are fulfilled.

8.12. One of the points mentioned to us with some emphasis was that in matters of giving contracts for construction and supplies the decisions should be taken by a committee and not by individuals if the amount involved is large, say rupees one lakh or more Obviously this practice could also apply to grant of different kinds

of licences. While the suggestion appears, at first sight, attractive, there are two difficulties, viz. : (i) possible blurring of responsibility and (ii) the committees being dominated by one forceful personality. We are of the opinion that in each department which has to deal with such matters, an attempt should be made to classify those matters which are best left to a committee for decision and those which are better left to be decided by individual officers.

8.13. Another matter that was brought to our notice was that undue secrecy in transacting Government business leads to 'sale of information'. The extent to which secrecy should be observed is a question that could be answered only by each Ministry/Department. We can only recommend that to the extent possible transaction of Government business should be open and in accordance with declared principles and procedures and there should not be any undue secrecy.

8.14. The Government gives grants to many non-official institutions engaged in social, literary, artistic or cultural activities. This form of assistance is certainly desirable, but at the same time care should be taken to see that the bodies and associations which take such grants function properly. They should be asked to send their annual reports and audited accounts and some responsible officer should place on record that the grants had been utilised for the purposes for which they were made.

SECTION 9

VIGILANCE ORGANISATION

9.1. The agencies at present responsible for implementing the anti-corruption activities of the Central Government are (i) the Administrative Vigilance Division in the Ministry of Home Affairs, (ii) the Vigilance units set up in the respective Ministries/Departments and their attached and subordinate offices and in the public sector undertakings, (iii) the Delhi Special Police Establishment (now part of the Central Bureau of Investigation). We would be dealing separately with the Delhi Special Police Establishment. In this Section we are confining our attention to the Vigilance organisation.

9.2. The Administrative Vigilance Division was set up in the Ministry of Home Affairs in August, 1955 in pursuance of a decision taken by the then Home Minister (the late Shri Govind Ballabh Pant) that there should be in the Ministry of Home Affairs an organisation which would assume the overall responsibility and provide the necessary drive, direction and co-ordination to ensure sustained and vigorous action by the individual Ministries and Departments. An outline of the organisation then set up was embodied in a Note placed before Parliament in August 1955. It is reproduced in Appendix II.

9.3. The Administrative Vigilance Division functions on the basis that each Secretary and Head of Department is responsible for checking corruption in his Ministry/Department. The Secretaries/Heads of the Departments are assisted by Vigilance Officers and there are 38 Vigilance Officers in the Ministries/Departments and 417 Vigilance Officers in the Attached and Subordinate Offices. There are also 65 Vigilance Officers in the corporate public undertakings.

9.4. Cases relating to members of the following services are dealt with in the Ministry of Home Affairs—

(1) All India Services—

(a) cases relating to members of such services who are

serving in connection with the affairs of a State Government where it is proposed to impose the penalty of dismissal, removal or compulsory retirement;

(b) all cases relating to members of such services borne on the Delhi Himachal Pradesh cadre.

(2) Central Secretariat Service (Selection Grade and Grade I). Consequent on decentralisation of the three Central Secretariat Services, control over staff of and upto the grade of Section Officers and over the Central Secretariat Stenographers' Service was transferred to the administrative Ministries/Departments concerned.

9.5. The following units are also functioning—

(i) Engineering Vigilance Cell in the Railways;

(ii) Chief Technical Examiner's Cell in the Ministry of Works, Housing and Rehabilitation—this organisation was set up in 1957;

(iii) Engineering Cell at the Army Headquarters.

9.6. The Railways have a separate vigilance organisation. There is a Director of Vigilance in the Railway Board. The Directors of Inspection and Investigation in the Customs and in the Income-tax Departments are in overall charge of the vigilance activities of those Departments. But we found in the two Customs Collectorates that we visited that there is no separate officer earmarked for vigilance work. The Commissioner of each Division of the Income-tax Department is in over-all charge of vigilance work of the division in his charge.

9.7. The general policy of Government, evolved over the years, and after considerable thought, is that public undertakings, particularly those incorporated as companies or set up as statutory corporations, should be given a large measure of freedom in respect of staff matters and day to day administration; and that imposition of restrictions likely to weaken managerial initiative and responsibility should be avoided as far as possible. However, soon after the setting up of the Administrative Vigilance Division in 1955, all the Ministries were requested to take steps to organise Vigilance Units in the Government of India undertakings in the public sector and accordingly Vigilance Units have been set up in practically every undertaking in the public sector.

9.8. The following table gives the number of persons actually engaged as on 31st December 1962 on the vigilance work (including Railways):—

Category of officer	Part time	Whole time
Gazetted	620	109
Non-gazetted	557	692
Class IV employees	144	339

9.9. It was reported in the Annual Report of the Administrative Vigilance Division for the year 1962 that the expenditure on the Vigilance Organisation of the Government including the Railways and the Special Police Establishment was estimated to be Rs. 97·43 lakhs. The expenditure on the Special Police Establishment was Rs 50·16 lakhs.

9.10. The shape of the vigilance activities at present is in brief:—

(i) Except when the Special Police Establishment start an inquiry or investigation on their own, the administrative Ministry decides whether it should take any action on a complaint or suspicion of dishonesty, or other irregularity and if it decides not to take any action, the matter rests there;

(ii) if it thinks that an inquiry is called for, it either asks an officer of the Department to look into the matter or hands over the case to the Special Police Establishment either for a preliminary inquiry or for instituting a regular case and investigating it;

(iii) when the result of the preliminary departmental inquiry is available, the Ministry itself again takes a decision whether the matter should be closed or whether a regular departmental inquiry should be held, or the matter handed over to the Special Police Establishment for instituting a case. If it decides to close the matter, the Administrative Vigilance Division of the Ministry of Home Affairs does not normally come into the picture at all. If a regular departmental inquiry is decided upon, the case is usually made over to one of the Commissioners for Departmental Inquiries particularly if it relates to gazetted officers or arises out of an investigation made

by the Special Police Establishment. The Ministry of Railways have, however, not been utilising the services of the Commissioners for Departmental Inquiries. If the inquiry is made by one of the Commissioners the final decision is taken by the Ministry, usually without consulting the Administrative Vigilance Division though, of course, the Union Public Service Commission is consulted when necessary;

(iv) in cases made over to them the Special Police Establishment recommend one or the other of the following courses of action; (a) criminal prosecution, (b) a regular departmental inquiry and (c) such other minor action as the Ministry may consider appropriate. (Where the Special Police Establishment come to the conclusion that the complaint is unfounded, they, of course, recommend that the matter may be closed);

(v) when the Special Police Establishment recommend criminal prosecution, it is in most cases necessary to obtain sanction of the President or some other prescribed authority. In all cases where the sanction is to be given in the name of the President, the sanction orders are issued by the Administrative Vigilance Division, but the substantive decision whether a sanction should be accorded is taken by the Ministry concerned. If a Ministry is not inclined to accept the Special Police Establishment's recommendation, the matter comes to the Administrative Vigilance Division for what can be best described as mediation; and

(vi) in regard to punishment on the result of a departmental inquiry, the Union Public Service Commission's advice, where sought, is usually accepted. In other cases, the Ministry concerned takes the final decision without consulting the Administrative Vigilance Division or the Special Police Establishment. However, where the inquiry had been made by a Commissioner, the punishment imposed is reported to the Administrative Vigilance Division, who in suitable cases ask a review. Similarly, where the earlier inquiry had been made by the Special Police Establishment they, in some cases, request the Administrative Vigilance Division to have the order reviewed.

9.11. Thus, it would appear that the Administrative Vigilance Division functions substantially in an advisory capacity.

9.12. The work done by the vigilance organisations of the Government of India is as stated below:--

COMPLAINTS

Year/Period	Total No for disposal	No. disposed of	Percentage of disposal	Pending at the end of the year
1956-57	4,676	3,716	79·47	960
1957-58	8,540	6,463	75·68	1,729
1-4-58 to 31-12-58	8,353	6,220	74·80	2,093
1-1-59 to 31-12-59	10,649	8,366	78·56	2,283
1-1-60 to 31-12-60	10,721	8,548	79·73	2,173
1-1--61 to 31-12-61	10,481	8,148	77·74	2,333

VIGILANCE CASES

1956-57	616	344	55·84	272
1957-58	3,694	1,974	53·43	1,720
1-4-58 to 31-12-58	3,714	1,809	48·71	1,905
1-1-59 to 31-12-59	10,035	6,380	63·57	3,655
1-1-60 to 31-12-60	13,305	9,530	71·63	3,775
1-1-61 to 31-12-61	15,116	10,973	72·52	4,143

APPEALS, REVIEWS AND MEMORIALS

Year/Period		Total No. for disposal	No. disposed of	Percentage of disposal	Pending at the end of the year
1957-58	A	638	341	53·45	297
	R	114	65	57·01	49
	M	456	304	66·66	152
1-4-58 to 31-12-58	A	614	360	58·63	254
	R	87	51	58·62	35
	M	355	228	64·23	127
1-1-59 to 31-12-59	A	2,430	1,683	69·26	747
	R	135	78	67·78	57
	M	626	466	74·44	160
1-1-60 to 31-12-60	A	2,681	1,810	67·51	871
	R	228	171	75·00	57
	M	714	514	71·99	200
1-1-61 to 31-12-61	A	3,372	2,203	65·33	1,169
	R	254	156	61·42	98
	M	817	576	70·25	234

Note : I. All the complaints and vigilance cases do not relate to charges of bribery and corruption. Quite a number of them were in respect of other types of disciplinary offences.

Note : II. The increase in the vigilance cases in 1959 is due to the fact that cases previously not reported were also included in the report for the year 1959. The increase in the number of cases in the year 1960-61 is due to the Government servants, strike.

9.13. We have examined the existing vigilance arrangements carefully. While considerable progress has been made in recent years in putting anti-corruption measures on a firm and systematic basis, and some success has been achieved in combating corruption and bringing offending public servants to book, it must be recognised that a great deal still remains to be done.

9.14. The present arrangements in all the Ministries and Departments are mainly intended to investigate and punish corruption and misuse of authority by individual members of the Services under the Government of India. However, there is no organic relation between the Administrative Vigilance Division and the Vigilance Officers of the various departments. We understand that in some of the departments the Vigilance Officers are taking a keen interest in their work while in others they do not take their responsibilities in this matter seriously. It is also essential to evolve and apply common standards in matters relating to prosecution, departmental action and the award of punishment. We feel that the time has come to put the entire Vigilance Organisation on a proper and adequate basis without in any way undermining the general principle that the Secretaries and Heads of Departments are primarily responsible for the purity, integrity and efficiency of their departments.

9.15. It is needless to say that neither the Administrative Vigilance Division nor the Vigilance Officers in the Departments would be able to function effectively without the assistance of the Delhi Special Police Establishment (now the Investigation and Anti-Corruption Division of the Central Bureau of Investigation). While there has been a large measure of cooperation between the Vigilance Organisations and the Delhi Special Police Establishment there are still many loose ends which have to be tied up and rules and conventions have to be established relating to matters where there are differences between the Secretaries/Heads of Departments, the Delhi Special Police Establishment and the Administrative Vigilance Division in respect of action to be taken in particular cases.

9.16. In view of the considerations referred to above, we wished to make a comprehensive approach to the problem of maintaining integrity in Administration. We studied, to the extent possible from the available literature the arrangements made in some other countries for dealing with complaints of citizens against Administration. As we considered that the problem could be dealt with effectively only if the root causes are taken into account, of which most important is the wide discretionary powers which are exercised

by the executive in carrying on the complicated work of modern Administration, we were of the view that the problem of maintaining integrity in administration cannot be viewed in isolation from the general administrative processes. While we agree that detection, investigation and punishment of corruption and misuse of authority by individual Government servants is of the utmost importance, we felt that unless the Central Vigilance Organisation was so expanded as to deal with complaints of failure of justice or abuse of authority suffered by the citizens, though it may be difficult to attribute them to any particular official, its work may not be as fruitful as we wished. We therefore recommended the setting up of a Central Vigilance Commission with a branch that would deal with general complaints and redress and another branch to deal with vigilance activities. We also recommended that certain powers, similar to those under sections 4 and 5 of the Commissions of Inquiry Act, 1952, should be conferred on the Central Vigilance Commissioner so that he may undertake an inquiry into transactions in which public servants are suspected or alleged to have acted for improper purposes or in a corrupt manner. In their decision, placed before Parliament on 16th December, 1963, the Government have fully recognised the importance and urgency of providing a machinery for looking into the grievances of citizens against the Administration and for ensuring just and fair exercise of administrative powers, but they have taken the view that such activities require separate treatment. Besides, they have decided to set up a Department of Administrative Reforms to scrutinise and improve administrative procedures and to work out the details of 'the machinery for looking into grievances of citizens against the Administration and for ensuring just and fair exercise of Administrative powers'. Our recommendation and the Government decision as set out in the Statement placed before Parliament on 16th December, 1963 are given in Annexure VI.

9.17. While we appreciate the fact that a substantial part of our recommendations have been accepted, a majority of the Committee still feel that it would have been better if our recommendations had been accepted in full. We earnestly hope that the new Central Vigilance Commissioner who has been appointed will be enabled to work in close cooperation with the new Department of Administrative Reforms which is to be set up and the machinery which may be evolved for the redress of grievances. It may not be always quite easy to separate cases of mere inefficiency and negligence from those involving corruption as all of them may be just causes of grievance for the citizens.

9.18. We consider that it will conduce to the more efficient functioning of the Central Vigilance Commission if sub-offices of the Commission are established at Bombay, Calcutta, Delhi and Madras. These sub-offices may be in the charge of serving Government servants. These officers should be of a sufficiently high rank so that they may deal effectively with regional heads of Departments like Commissioners of Income-tax, General Managers of Railways, Heads of public undertakings etc. The functions, duties and responsibilities of these officers may be such as may be determined by the Central Vigilance Commissioner. These officers may be designated as Joint Secretaries to the Central Vigilance Commission.

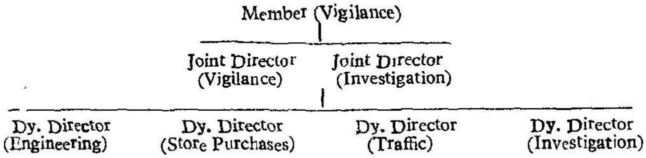
9.19. We have examined the Vigilance Organisation in the Railways with particular care as the organisation came to be set up consequent upon the recommendations made by the Railway Corruption Enquiry Committee of 1953-55 presided over by Acharya Kripalani. We found that no particular member of the Board is incharge of the Vigilance Organisation. The Chairman, Railway Board, who is in over all charge of the Organisation can hardly be expected to take on the burden of directing its day-to-day activities. The non-availability of high level guidance has caused, to some extent, lack of awareness of the problems and requirements of the Vigilance Organisation and of uniform standards in dealing with misconduct and lack of integrity. The Vigilance Organisation of the Railways suffers from the following drawbacks:—

(1) The Director (Vigilance) in the Railway Board, has no control over the subsidiary vigilance units of the Zonal Railways which are completely under the respective General Managers. The Director (Vigilance) has authority only over the staff in his own Directorate in the Railway Board. Director (Vigilance) is not consulted at the time of posting of vigilance officers of the Zonal Railways nor is the vigilance branch consulted at the time of promotion of staff and officers. The status of Director (Vigilance) is lower than that of the General Managers of the Zonal Railways. He, therefore, cannot question the decision of a General Manager and in cases where there is a difference of opinion between the Special Police Establishment and the Railways, he acts as a post office between the Board, General Managers and the Special Police Establishment, communicating the views and decisions of one to the other.

(2) The organisation at the disposal of Director (Vigilance) in the Railway Board's office consists of one Deputy Director

(a Railway Officer) who is further assisted by two Assistant Directors, one a police officer for investigation work, and another a railway officer, for doing correspondence with the railways etc., fourteen Inspectors and a few sub-inspectors for investigation work. Considering the amount of work that has to be done, the organisation is wholly inadequate. There is no officer from the Stores and the Engineering branches. The post of Deputy Director (Investigation) has been downgraded to that of Assistant Director and a Deputy Superintendent of Police has been appointed.

9.20. We consider that the Vigilance arrangements in the Railways would be more effective if the organisation is re-organised as follows:—



9.21. There should be a Member Vigilance in the Railway Board so that he may be able to act with authority and independence in all vigilance matters in respect of the entire railways, subject of course to the powers and jurisdiction of the Central Vigilance Commission. The Joint Director, Vigilance, should ordinarily be an officer belonging to a service other than the Railway Service, preferably an I.A.S. Officer. The Joint Director, Investigation, should be a Police Officer of the rank and status of the Deputy Inspector General of Police. Adequate investigating staff should be provided at headquarters. Subject to the powers of the Central Vigilance Commission the Member Vigilance should have a measure of control over the vigilance organisations in the Zonal Railways. If there is any difference of opinion between the Member Vigilance and the Railway Board, such differences should be resolved on the advice of the Central Vigilance Commission.

9.22. In the zonal railways, the vigilance officer, a senior scale railway officer, works under the control of the Senior Deputy General Manager, who is in charge of vigilance organisation along with some other departments. The vigilance officer has to take

orders from the Senior Deputy General Manager, and General Manager for any investigation against a gazetted officer. We are doubtful whether the Senior Deputy General Managers are selected for their flair for anti-corruption work. We noticed that rarely have vigilance officers of the zonal railways investigated cases against gazetted officers. We recommend that vigilance officers in the Zonal Railways should have the status of a Departmental Head and be given full liberty to investigate into complaints received by them and it should not be necessary for them to obtain the prior permission of any other authority in the Zonal Railways for making such investigation. If there is a difference of opinion between him and the General Manager, the matter should be referred to the Member (Vigilance) in the Railway Board whose decision should be final.

9.23. Considering all the aspects, we make the following recommendations which should apply to all Ministries/Departments/undertakings: —

(i) There should be one Chief Vigilance Officer in each Ministry/Department/Central Corporate undertaking. The Chief Vigilance Officers and the Vigilance Officers should be of a sufficiently high rank so that they may be able to function effectively. There should be Vigilance Officers in all subordinate and attached offices, and in important departments of the public sector undertakings. The Central Board of Revenue has now been split into two Boards. There should be two Chief Vigilance Officers in the Ministry of Finance, one for the matters dealt with by the Direct Taxes Board and the other for the matters dealt with by the Indirect Taxes Board.

(ii) The Chief Vigilance Officers should be appointed in consultation with the Central Vigilance Commission and the Vigilance Officers in subordinate and attached offices should be appointed in consultation with the Chief Vigilance Officer of the Ministry/Department. No person whose appointment as Chief Vigilance Officer is objected to by the Vigilance Commissioner should be so appointed.

The Chief Vigilance Officers and other Vigilance Officers besides being the link between the Central Vigilance Commission and the Ministry/Department, should, as at present, continue to be the special assistants to the Secretary or the Head of Department/undertaking in combating corruption, misconduct and malpractices in the Ministry/Department/undertaking. The Chief Vigilance Officer will be responsible for coordinating and

guiding the activities of other Vigilance Officers in the attached and subordinate offices and other organisations for which his Ministry/Department is responsible.

Whole-time or part-time assistance of a Deputy Superintendent of Police from the Central Bureau of Investigation may be made available to the Chief Vigilance Officer(s) of each or of the Ministries/Departments/undertakings.

(iii) The Chief Vigilance Officers, and the Vigilance Officers should have complete independence to investigate complaints of corruption and malpractices.

(iv) Those working in the Vigilance Organisation should have an assurance that good and efficient work in the Vigilance Organisation will enhance their opportunities for promotion and not become a sort of disqualification.

(v) Those posted to the Vigilance Organisation should not have the fear of returning to their parent cadre after a short period with the possibilities of facing the anger and displeasure of those against whom they made inquiries.

(vi) It should be the invariable practice to obtain integrity clearance from the vigilance organisation in matters relating to confirmation and promotion.

(vii) The Chief Vigilance Officers and Vigilance Officers in Departments and establishments having field organisations should have an adequate investigating staff so that such of those complaints or cases which are not handed over to the Central Bureau of Investigation may be investigated by them. The strength of the investigating staff should be determined by each Ministry in consultation with the Central Vigilance Commissioner.

(viii) All departmental proceedings against Class I and Class II officers and other important cases should be entrusted to Commissioners for Departmental Inquiries attached to the Central Vigilance Commission. For this purpose, the number of the Commissioners for Departmental Inquiries should be suitably increased and officers from different departments liks Railways, Central Public Works Department, Income Tax, Central Excise and Customs Posts and Telegraphs, should also be appointed as Commissioners for Departmental Inquiries.

(ix) The Chief Vigilance Officers in other Ministries/Departments, the Member, Vigilance in the Railways and the

Chief Vigilance Officer in the public sector undertakings should have the power to scrutinise the correctness of the findings and conclusions arrived at in a departmental inquiry and the adequacy of punishment and initiate action for review if he considers that the punishment awarded is inadequate. Similarly, the Delhi Special Police Establishment should also be authorised to move for review of findings and punishment in cases started on their report. In all these matters the advice of the Central Vigilance Commission should be freely obtained.

9.24. We would suggest that training courses should be organised for the Vigilance Officers and the programme for training should include instructions in the various laws and rules, departmental procedures, methods of investigation, including collection of information and processing the same, procedure for departmental proceedings etc. The syllabus should be devised by the Central Vigilance Commissioner in consultation with the Director of Central Bureau of Investigation. It should be open to the State Governments also to send their officers for training.

9.25. It is desirable that the Special Police Establishment should be able to spare some officers for vigilance work and its strength should be reviewed for this purpose. If a fourth of the vigilance officers at various levels can consist of members of the Special Police Establishment lent for a period of 4 or 5 years at a time, it may result in the improvement of both the vigilance and the Special Police Establishment organisations.

SECTION 10

SPECIAL POLICE ESTABLISHMENT

10.1. At an early stage of the World War II, the Government of India realised that the enormously expanded expenditure for purposes connected with the war had brought about a situation in which unscrupulous and anti-social persons, both officials and non-officials, were enriching themselves dishonestly at the cost of the public and the Government. It was felt that the police and other law enforcement agencies which functioned under the State Governments were not adequate to cope with the situation. Under these circumstances, the setting up of a separate organisation to investigate offences connected with these transactions became a dire necessity. As a result of this, the organisation known as the Special Police Establishment was created by the Government of India in 1941 under an executive order of the Central Government.

10.2. The functions of this organisation were to investigate cases of bribery and corruption in transactions with which the War and Supply Department of the Government of India were concerned. Since most of the cases were expected to be connected with the War Department (as the Defence Department was then known), the superintendence of this organisation was vested in the War Department. At the end of 1942, the activities of the Special Police Establishment were extended to include cases of corruption on the Railways also, presumably because the Railways were strategically concerned with the movement and supply of war material.

Jurisdiction

10.3. In 1943, some doubt was felt about the legal powers of Police officers working with the Special Police Establishment. An Ordinance No. XXII of 1943 was, therefore, issued by the Government of India, by which a Special Police Force for the investigation of certain offences committed in connection with departments of the Central Government and with powers to investigate such offences wherever committed in British India, was constituted. This Ordinance, which first clearly placed the Special Police Establishment on a legal footing lapsed on 30th September, 1946 and was replaced by the Delhi Special Police Establishment Ordinance No. 22 of 1946, which was subsequently replaced by the Delhi Special Police Establishment Act, 1946 (Act XXV of 1946). After the promulgation of the Act, the superintendence of the Special Police Establishment

was transferred to the then Home Department, now known as the Ministry of Home Affairs, and its functions were enlarged to cover all Departments of the Government of India. Since then the Special Police Establishment has been functioning under this Act, as amended from time to time. Its jurisdiction now extends to all the States and Union Territories.

Enforcement Wing

10.4. In 1953, an Enforcement Wing was added to the Special Police Establishment to deal with offences relating to breach of Import & Export Regulations. This wing continues.

Central Bureau of Investigation

10.5. On the establishment of the Central Bureau of Investigation from 1st April, 1963 the Special Police Establishment has been made one of its Division. The organisation and functions of the Central Bureau of Investigation are given in the Government Resolution, dated 1st April, 1963 of which a copy is in Appendix III. The jurisdiction, powers and functions of the Special Police Establishment remain as before even after the setting up of the Central Bureau of Investigation.

Powers and Functions

10.6. The Special Police Establishment exercises powers under the provisions of the Delhi Special Police Establishment Act. The necessary notifications have been issued by the Central Government or by State Governments. The Special Police Establishment is authorised to take up for investigation only those offences which are notified by the Central Government under section 3 of the Delhi Special Police Establishment Act. A list of the offences so notified is given in Appendix IV. In respect of these offences officers of the Special Police Establishment, of and above the rank of Sub-Inspectors are deemed to be officers-in-charge of Police Stations both in Union Territories and in the States. They also exercise the powers, duties, privileges and liabilities of Police Officers of the territories in which they may be posted or working for the time being.

10.7. The Special Police Establishment is a specialised agency for making inquiries and investigations into certain specified offences. It is supplementary to the State Police Forces. It enjoys with the respective State Police Force, concurrent powers of investigation and prosecution in respect of offences notified under section 3 of the Delhi Special Police Establishment Act, 1946. To avoid duplication of effort an administrative arrangement has been arrived at between the Central Government and the State Governments about the types of cases to be taken up by the Special Police Establishment. In so

far as cases involving public servants are concerned, the arrangement is that:—

(a) Cases which substantially and essentially concern Central Government employees or its affairs, even though involving certain State Government employees, shall be taken up by the Special Police Establishment;

(b) Cases which substantially and essentially involve State Government employees or affairs relating to the State Government, even though involving certain Central Government employees, shall be taken up by the State Police;

(c) The Special Police Establishment is also authorised to take up cases against employees of statutory bodies or public Undertakings set up and financed by the Government of India.

10.8. At present the more important cases relating to mal-practices occurring in connection with the management of Joint Stock Companies and infringement of import and export regulations are being taken up for investigation by the Delhi Special Police Establishment. The wing in the Delhi Special Police Establishment which deals with offences should be expanded and strengthened to take up cases of breaches of foreign exchange regulations and important cases of smuggling, evasion of customs duty, under-invoicing, over-invoicing etc.

Inquiries and Investigations

10.9. In order to secure cooperation between the Special Police Establishment and the Ministries and Departments of the Central Government separate Directives have been issued by the Ministry of Home Affairs, by the Railway Board and by the Army, Naval and Air Headquarters and Defence Production Organisation. While there may be some justification for separate Directives in respect of cases involving the personnel of the Army, the Navy and the Air Force there is no reason, in our opinion, for having a separate Directive for the Railway employees. They should be covered by the general Directive issued by the Ministry of Home Affairs. As the Ministry of Home Affairs Directive was issued several years ago and as a Central Vigilance Commission has now been set up there is need for revising this Directive. Some changes may also be necessary in the Directives issued by the Army, the Navy and the Air Headquarters. We recommend that a revision of all these Directives be initiated and undertaken by the Central Vigilance Commission.

10.10. From inquiries made by us we found that there have been very few cases in which requests have been made by the Ministries or Departments to the Special Police Establishment to make inquiries into allegations of bribery or corruption against their staff. We feel sure that information about corrupt practices on the part of their staff must be reaching Heads of Departments and Heads of Offices in one way or another. We suggest that it should be made obligatory on the part of Chief Vigilance Officers of the Ministries, Departments and Undertakings and on the Heads of Departments and Undertakings to report to the Special Police Establishment for investigation of all cases in which serious allegations of bribery and corruption are made against public servants.

Difficulties experienced by the Special Police Establishment in Inquiries and Investigation

10.11. It has been brought to our notice that prior concurrence is required to be taken by the Special Police Establishment for starting inquiries or investigations against Railway Gazetted Officers. Such a requirement does not apply to any other Ministry or Department of the Central Government. We feel that this requirement should be dispensed with even in cases relating to Railway Gazetted Officers. In our view there is no justification for such a condition.

10.12. Although the Directives lay down that facilities should be offered to the Special Police Establishment by Ministries and Departments in obtaining and examining official files and documents yet we are informed that, in a number of cases, there has been delay or difficulty in this. Sometimes objections have been raised to making the records available. We consider it necessary that all the records and documents which are required by the Special Police Establishment should be forthwith made available to them for inspection and scrutiny. We feel that ordinarily a fortnight should suffice for this purpose but at the most records should be made available to the Special Police Establishment within a month of the request. This is of importance not only to ensure that available material is not tampered with or destroyed but also to prevent unnecessary inquiries being made. For, it is quite possible that, in some cases the allegations may be capable of being fully explained or cleared from the records themselves. This suggestion applies not only to the Ministries and Departments but also to the Public Undertakings, Statutory Bodies, Corporations etc. which are under the control of the Central Government.

Obtaining of Documents from Audit Office

10.13. There is a special procedure for obtaining original audit documents from the Audit Offices. Under that procedure the

requisition for the records has to be signed by the Inspector General, Special Police Establishment and sent to the Accountant General concerned. This procedure involves a good deal of delay. Until the documents are made available the investigation is held up. We see no great advantage in having all such requisitions for audit documents routed through the Inspector General, Special Police Establishment. It would expedite matters if Superintendents of Police incharge of the Special Police Establishment Branches are also authorised to write to the Accountant General concerned direct and to requisition audit documents. We suggest that the existing procedure on this subject should be amended accordingly in consultation with the Auditor-General of India.

Transfer of Delinquents

10.14. It has been brought to our notice that sometimes delay and difficulties occur in transferring the accused or suspected Government servants from their place of posting where they continue to exercise official authority and interfere with police investigation. This hampers and delays inquiries. We consider it necessary that in all serious cases where such a request is made by the Special Police Establishment, the suspects or delinquents should be transferred quickly—say within 2 to 3 weeks.

Securing the Presence of Official Witnesses

10.15. Delay occasioned in securing the presence of official witnesses for examination is another cause which tends to hold up the investigation of Special Police Establishment cases. All officials required by the Special Police Establishment for interrogation should be made readily available—say within 10 days or so.

Obtaining of Information Regarding Pay, Allowances etc.

10.16. In cases involving assets disproportionate to one's known sources of income there is usually delay in obtaining from Accounts Officers etc. statements regarding pay, allowances etc. of the Government servant concerned. It is desirable to fix a time-limit for supplying the requisite information to the Special Police Establishment investigating officer. In our opinion it should not ordinarily take more than a month to supply this information. We also suggest that one Officer in the offices of Accountants General, Defence Audit and Railway Audit should be specially designated for this purpose and be made responsible for supplying the required statements and information to the Special Police Establishment.

Inquiries in Foreign Countries

10.17. In several Special Police Establishment cases inquiries become necessary in foreign countries also. We understand that in

some cases of this type in the past inquiries were got made from the Indian Missions abroad. While this may serve the purpose in simple cases, it cannot be a satisfactory arrangement in serious and complicated cases. To ensure that the necessary inquiries are made in foreign countries promptly and fully and that all relevant points are looked into, it is necessary that the investigating officer himself should conduct these inquiries. We suggest that Special Police Establishment Officers should be allowed to go to foreign countries whenever inquiries of a complicated nature on important points are necessary if this is certified by the Central Vigilance Commissioner.

Technical and Expert Opinion.

10.18. In many Special Police Establishment cases it becomes necessary to obtain technical assistance or expert opinion. The arrangements existing at present for obtaining such help are given in Appendix V. These arrangements are satisfactory except in respect of two items.

10.19. The first and the most important item in which an improvement is called for relates to Engineering Works, constructions, diggings, fillings etc. At present technical opinion in such matters is obtained by Special Police Establishment from 5 different Agencies *viz.*,

(i) The Chief Technical Examiner under the Ministry of Works and Housing;

(ii) The Central Public Works Department;

(iii) The Railway Engineers;

(iv) The Military Engineering Services; and

(v) The Forest Research Institute, Dehra Dun.

10.20. The Railways insist that their 'works' should be examined and inspected and opinion given thereon only by Railway Engineers; the Army authorities also feel that their works should be inspected by their own Engineers. The Forest Research Institute take up this work only reluctantly and they have now suggested that the Special Police Establishment should reimburse them the extra cost involved in the examination of Special Police Establishment cases, if such cost is heavy. The present arrangement of obtaining opinion about Engineering works from different Organisations is not satisfactory from several points of view. It would be much better to have one Central Organisation to conduct examinations and inspections and to give technical opinion on all cases involving Engineering works, constructions, filling, diggings etc. irrespective of the Ministry or Department to which they relate. It would also be useful to have a Wood Expert on this Central Organisation as technical examina-

tion and opinion on wood or timber is required quite frequently in Special Police Establishment cases. We consider it absolutely essential to have such a technical wing and we suggest, to be independent, it should be placed under the Central Vigilance Commission. It should be authorised to inspect and to give technical opinion on works of any Department of the Government of India including Railways and Defence, or of any Public Undertaking, Statutory Corporation etc. under the control of the Central Government.

10.21. The second organisation requiring strengthening is that of the Government Examiner of Questioned Documents. The Special Police Establishment has to send a very large number of exhibits and questioned documents to the Government Examiner of Questioned Documents for examination and report. It is necessary that such examination is conducted expeditiously. We understand that certain proposals for strengthening the Government Examiner of Questioned Documents establishment are already under consideration and we suggest their finalisation and implementation should be expedited.

10.22. In some Special Police Establishment cases laboratory tests and analysis also becomes necessary. A list has already been prepared of all the research centres and laboratories where facilities exist for tests and analysis. The Administrative Vigilance Division has requested the Ministries concerned to issue instructions to these research centres and laboratories to accept specimens and requests from the Special Police Establishment for examination and opinion. In our view this may suffice. We suggest that the research centres and laboratories should be asked to deal with the requests from the Special Police Establishment on a priority basis.

Opinion on Finger Prints

10.23. At present opinion on finger prints, thumb impressions etc. is being obtained by the Special Police Establishment from the State Finger Print Bureau. They being preoccupied with State cases are unable to give precedence to Special Police Establishment cases. Delay is, therefore, sometimes experienced in obtaining opinion from the State Bureaux. We understand that there is a proposal that the Central Finger Print Bureau, Calcutta may undertake comparison and opinion work in Special Police Establishment cases. We suggest that this should be expedited.

Prosecution and Trial

10.24. A number of cases have been brought to our notice in which there has been delay in sanctioning prosecution. In a few cases

there has also been some difficulty in obtaining sanction. We feel that with the establishment of the Central Vigilance Commission, delays and difficulties in this matter would be eliminated in so far as officers of Gazetted rank are concerned. We would suggest that it should be emphasised on all officers who are to give sanction for prosecution that there should be no delay.

10.25. Sometimes questions are raised as to whether departmental action or prosecution should precede in cases where both are possible. We are of the opinion that, in order to produce deterrent effect, prosecution should be the general rule in all those cases which are found to be fit for court after investigation and in which the offences are of bribery, corruption or other criminal misconduct involving loss of substantial public funds. In such cases departmental action should not precede prosecution. In other cases involving less serious offences or involving malpractices of a departmental nature, departmental action only should be taken and the question of prosecution should generally not arise at all. In this way duplication of effort will be avoided and it would be possible to deal quickly with the delinquent public servants concerned. Whenever there is serious difference of opinion the matter should be referred to Central Vigilance Commission and its advice accepted.

Special Judges and Magistrates

10.26. Special Judges and Magistrates have been notified for the trial of Special Police Establishment cases in all States excepting one in which such notifications are issued individually for each case. This causes delay in the finalisation of charge-sheets and in the commencement of trials. We would suggest that in this State also the arrangements in vogue in other States should be adopted.

10.27. We are informed that in some States the Special Judges and Magistrates are appointed exclusively for Special Police Establishment cases while in others they attend to other work also. Under the latter arrangement the Special Police Establishment cases tend to get delayed and the reason for not having whole-time Special Judges and Special Magistrates for Special Police Establishment work in these States may be that the number of Special Police Establishment cases is not sufficient to keep them fully occupied. We suggest that in such circumstances, the Special Judges and Special Magistrates appointed to try Special Police Establishment cases may be given such other work as may not cause any delay to the prosecution of Special Police Establishment cases. The States concerned may also issue instructions to the Special Judges and Magistrates to accord priority to Special Police Establishment cases.

10.28. Quite a large number of Special Police Establishment cases are of an intricate and difficult nature. They require prolonged trial

and greater concentration. It is necessary that specially selected Judges and Magistrates should be appointed as Special Judges and Special Magistrates to try the Special Police Establishment cases.

Representation in Special Police Establishment Cases

10.29. While the Special Police Establishment have their own Public Prosecutors to conduct their cases in the trial courts, difficulty is experienced in representation in Special Police Establishment cases in the appellate courts, viz. the High Courts. In accordance with the existing arrangements the State Government Advocates have to look after Special Police Establishment cases in the High Courts. This arrangement has not proved quite satisfactory as those cases are not always taken up by the State Government Advocates themselves but are entrusted to one of the Counsels on the approved list. We consider that the best arrangement would be for State Governments to issue directions that all Special Police Establishment cases should be taken up by the Government Advocate or the Senior Assistant Government Advocate personally. Wherever this is not possible, the Special Police Establishment should be authorised to engage its own Counsel for its cases in the High Court.

Departmental Proceedings

10.30. We regret to note that a good deal of delay is caused, for one reason or another, in conducting departmental or Disciplinary Proceedings. We notice that quite a large number of departmental inquiries have been pending for a long time. These delays are undesirable from every point of view. They whittle down the deterrent effect of punishment. Difficulty is also experienced by witnesses when they are examined after a considerable lapse of time. We suggest that departmental inquiries relating to Gazetted Officers of all the Ministries and Departments of Government of India (excepting Commissioned Officers of the Defence Services) should be conducted by Commissioners of Inquiries. If necessary, the number of Commissioners of Inquiries attached to the Central Vigilance Commission should be increased. We understand that at present departmental inquiries relating to Railway Gazetted Officers are not sent to these Commissioners of Inquiries. We see no reason or justification for this discrimination. We are strongly of the opinion that departmental inquiries relating to Railway Gazetted Officers should also be conducted by the Commissioners of Inquiries attached to the Central Vigilance Commission.

10.31. Departmental inquiries relating to Non-Gazetted public servants may be conducted by suitable Departmental officers but the need for expedition must be impressed on all Inquiry Officers. We

have suggested elsewhere certain changes in the rules relating to disciplinary proceedings and we hope that with their adoption the delays in these proceedings would be considerably reduced.

Adequacy of Departmental Punishment

10.32. In order to judge whether the decisions taken and the punishments awarded are adequate it is necessary for the Special Police Establishment to examine the files of departmental inquiries. We are informed that sometimes there is delay and hesitation in making these files available to the Special Police Establishment. We are unable to appreciate either this delay or this hesitation. After all the Special Police Establishment would, even if it considers that the decision taken or the punishment awarded is inadequate, refer the matter to the higher departmental authority itself for a review. We suggest that in all such cases files should be promptly made available to the Special Police Establishment without any difficulty. We would also suggest that if there is difference of opinion between any departmental authority and the Special Police Establishment about the merits of the decision taken or the adequacy of the punishment awarded, the matter may be referred to the Central Vigilance Commission for their advice and subsequent action taken accordingly.

Protection to Informers and Witnesses

10.33. Some cases have come to our notice in which informers and witnesses have been put to difficulty or have been subjected to loss, in financial, official or other matters, because of the information or help which they may have given in exposing and dealing with bribery and corruption. We consider it necessary that immunity should be given to informers and witnesses and that they should be saved from harassment on this account.

Relations between Administrative Vigilance Division, Vigilance Officers in Ministries and Departments and the Special Police Establishment

10.34. In matters relating to inquiries and investigations being conducted by them the Special Police Establishment deals directly with the Administrative Vigilance Division, the Ministries and Departments of the Government of India and the Public Undertakings and Statutory bodies and Corporations under the control of the Central Government. In cases where any difficulties or doubts arise between the Ministries, Departments etc. and the Special Police Establishment, the good offices of the Administrative Vigilance Division are invoked to settle the matter. We suggest that this direct contact should continue even after the establishment of the Central Vigilance Commission.

Strength of the Special Police Establishment

10.35. The Special Police Establishment has at present 14 Branches, each under the Charge of a Superintendent of Police. Except the States of Jammu and Kashmir and Kerala, there is a Special Police Establishment Branch in every State and the jurisdiction of the Branch is co-terminus with the State boundaries. Kerala falls within the jurisdiction of Madras Branch and Jammu and Kashmir within that of Ambala Branch. There are also two other Branches, the Central Investigating Agency comprising Squads A and B and the Fraud Squad, situated at Delhi, both having jurisdiction all over India. The two Squads of the Central Investigating Agency are responsible for collection of information about serious and important cases of bribery and corruption and for inquiring into difficult and intricate cases or those which have inter-State ramifications or which require specialised knowledge, experience and close supervision at the highest level. The Fraud Squad particularly deals with cases of fraud, cheating and the like and with serious offences under the Indian Companies Act in which Joint Stock Companies are involved. A statement giving the location of the various Branches and their jurisdiction is placed in Appendix VI.

10.36. At the Head Office of the Central Bureau of Investigation, the Special Police Establishment Division is under the direct charge of an Additional Inspector General of Police under the overall control of the Inspector-General of Police. The Branches of the Special Police Establishment are divided into two zones, each under the charge of a Deputy Inspector-General of Police.

Adequacy of Special Police Establishment Staff

10.37. We have considered the organisation, strength and set up of the Special Police Establishment in some detail as, in intensifying action against bribery and corruption, the Special Police Establishment has to play a vital role. To enable it to discharge its responsibilities adequately it is necessary to provide it with the requisite staff. In our opinion the present strength of the Special Police Establishment which was sanctioned mainly in the years 1956 and 1957 is not enough to meet all the requirements. The main items which have added to or increased the work of the Special Police Establishment are mentioned below:—

(i) Since 1956 the number of cases of bribery, corruption and other malpractices taken up by the Special Police Establishment has increased 2½ times from 551 in 1956 to 1,442 in 1963.

(ii) Quite a large number of Statutory Corporations and Public Undertakings have been established since 1956 and been

brought under the purview of the Special Police Establishment.

(iii) The outlay and expenditure in several Ministries and Departments like the Railways, Mines and Fuel, Steel and Heavy Industries, the Defence and the Central Public Works Department under the various Five Year Plans are much heavier now than previously. The scope for corruption in respect of construction works and supplies has thus considerably increased.

(iv) In our opinion the Special Police Establishment should pay much greater attention to the Union Territories, particularly Delhi, Himachal Pradesh and Goa than what it has done in the past.

(v) In 1956 the Special Police Establishment depended mainly upon complaints, anonymous or otherwise, received by it. During the last three years this has been changed and a large majority of the cases now taken up by the Special Police Establishment are on the basis of information collected by it. The work in the field of collection of information has to be expanded and intensified. We consider this to be the most important part of the functions of the Special Police Establishment.

(vi) The Special Police Establishment should continue to prepare appreciation reports and notes regarding the modes and methods of corruption in different Ministries and Departments and also to make suggestions for checking them.

(vii) The Special Police Establishment should also maintain and supply lists of Gazetted Officers who are suspected to be corrupt or whose reputation for honesty and integrity is bad.

(viii) There is much greater need now than before for regular contact between officers of the Special Police Establishment and of the different Ministries, Departments, Corporations and Public Undertakings. This throws a particularly heavy burden on the Deputy Inspectors General.

(ix) Typing and copying work have increased considerably as copies of documents as well as statements of witnesses have to be given in advance to accused persons in every case sent up to court for trial. In some cases copies of statements of witnesses have also to be furnished during

Departmental Proceedings. These have to be checked, compared and certified by Investigating Officers.

(x) There are signs of an increase in unlawful activities relating to private Joint Stock Companies.

(xi) Offences relating to Foreign Trade and Foreign Exchange are also likely to increase, particularly those relating to Import and Export Licences, under-invoicing and over-invoicing.

10.38. The need for sanctioning additional staff for the Special Police Establishment would be clear from the above. Our suggestions are given in the following paragraphs. The extra expenditure involved would be like insurance. It is likely to be repaid many times over by savings and prevention of losses.

Zones and Deputy Inspectors General

10.39. The division of the Special Police Establishment Branches into two Zones is, in our view, not organisationally sound. It is not possible for two Deputy Inspectors General to cover the entire country. Bombay, Calcutta, Delhi and Madras by themselves have scope for full time work; then there are other States to be catered for. We are convinced that there must be four Special Police Establishment Zones, each under the charge of a Deputy Inspector General. In anti-corruption work supervision, control and direction at a high level are most essential.

Branches

10.40. Considering the areas to be covered and the volume of work we consider it necessary that there should be one Special Police Establishment Branch in every State. As mentioned earlier, there is no Branch of the Special Police Establishment in Kerala and Jammu and Kashmir. Madras Branch looks after the former and Ambala Branch after the latter. Work in and around Madras is itself quite heavy and it has been found in actual practice that it has not been possible for the Madras Branch to adequately cover Kerala. Similarly the work of Ambala Branch is quite heavy in respect of its commitments in Punjab and Himachal Pradesh, whic also falls within its jurisdiction. The work in Jammu and Kashmir has thus been neglected to some extent. We, therefore, suggest that two new Special Police Establishment Branches should be started, one for Kerala and one for Jammu and Kashmir.

Need for a Branch at Ranchi

10.41. Quite a large number of Projects, Undertakings and Corporations in the public sector are located in the territory situated on the

south-east of Bihar, west of Calcutta, north of Orissa and north-east of Madhya Pradesh. The statement at Appendix VII shows their location and other particulars. These Undertakings fall under four different Branches viz. Patna, Calcutta, Puri and Jabalpur. The distances of some of these Undertakings from the Branch Headquarters are quite long and it becomes difficult for them to deal with the problems of these Undertakings adequately. It would add to efficiency and speed of work if a Special Police Establishment Branch is located at Ranchi to cover all these Undertakings. It would be easier for the Undertakings also as they would then be in a position to deal with one Special Police Establishment Branch. The officers of the Branch would also get specialised in dealing with cases relating to the Public Undertakings which to some extent are different in character from the cases of Government Departments.

Central Investigating Agency

10.42. Instead of there being two separate units at the Centre having all India jurisdiction we suggest that there should be only one such unit known as the Central Investigating Agency. There should be a number of separate Wings under this Agency. Each of these Wings should specialise in particular types of cases and in taking up inquiries relating to particular Departments, e.g. one Wing may take up cases relating to Railways, Central Public Works Department, Military Engineering Services, etc., another to Supplies and Disposals, Army Supply Corps etc., the third may take up cases relating to Income-tax, Customs and Central Excise and the 4th may take up cases relating to fraud, cheating etc., particularly those by Joint Stock Companies. We suggest that there should be 5 such Wings in the Central Investigating Agency. Each of these should be under the charge of a Superintendent of Police with the necessary complement of staff.

Union Territories

10.43. It is necessary to make special arrangements for anti-corruption work in the Union Territories. With this object in view the strength of the Delhi, Ambala, Bombay and Madras Branches of the Special Police Establishment should be suitably augmented.

10.44. Manipur and Tripura are covered by the Shillong Branch which also has within its jurisdiction Assam, NEFA and Nagaland. On account of difficult communications in this entire area it is difficult for one Branch situated at Shillong to look after the work in all these places. We suggest that a small Special Police Establishment Wing should be located at Manipur with jurisdiction over Manipur and Tripura. This Wing should be under the charge of a Deputy Superintendent of Police and be under the over all control of the Superintendent of Police Shillong Branch.

Strength of other Existing Branches

10.45. In our view the strength of the existing Special Police Establishment Branches should be determined keeping in view the following factors:—

(i) The number of sensitive Departments and offices that require attention.

(ii) The number of Government servants.

(iii) The average of cases taken up during the last 3 years and the estimate of projected workload.

(iv) Collection of intelligence.

From this point of view we consider it necessary that there should be two Superintendents of Police in the Special Police Establishment Branches at Bombay, Calcutta, Delhi and Madras.

10.46. On the basis of the suggestions and remarks made above our recommendations for the total strength of Executive and Prosecuting staff for the various Units and Branches of the Special Police Establishment are given in the statement in Annexure XIV. This is inclusive of the existing strength. The strength of the additional staff required for the Head Office of the Special Police Establishment is shown in Annexure XV.

Prosecuting Officers

10.47. There are at present one Additional Legal Adviser and one Deputy Legal Adviser to conduct cases in courts. They have also to scrutinise reports and briefs relating to cases and to give their views and suggestions. It has been found in actual practice that they are not able to conduct prosecutions in court in all the important cases. Special Counsels have to be engaged. The amount spent on Special Counsels was Rs. 1,44,000 in 1960, Rs. 1,47,000 in 1961 and Rs. 1,15,000 in 1962. There would be some saving in this if another Deputy Legal Adviser is available and we recommend accordingly.

10.48. Apart from the Additional Legal Adviser and the Deputy Legal Adviser, there are three other grades of Prosecuting Officers in the Special Police Establishment *viz.* Senior Public Prosecutor, Public Prosecutor and Assistant Public Prosecutor. Their scales of pay are:—

Senior P.P.—Rs. 590—30—800—E.B.—30—830—35—900.
P.P.—Rs. 355—15—475—E.B.—20—575.
Asstt. P.P.—Rs. 210—10—290—15—320.

Direct recruitment is made in the rank of Assistant Public Prosecutor. In our opinion, the scale of pay at present prescribed for Assistant Public Prosecutors is not adequate enough. Even in

some States the scale of pay for the lowest rank of Public Prosecutors is higher e.g. in Madras, the scale of pay for Assistant Public Prosecutor Grade II is Rs. 220—15—375. In order to secure better type of candidates for direct recruitment we suggest that the rank of Assistant Public Prosecutor should be abolished and there should be only two ranks viz. Senior Public Prosecutor and Public Prosecutor.

Technical Staff

10.49. The Special Police Establishment has to deal almost constantly with matters relating to construction works. We suggest that an officer of the rank of Overseer or Sectional Officer of the Central Public Works Department, Railway Engineering Service and the Military Engineering Services, as may be possible, may be taken on deputation in each Special Police Establishment Branch except the Central Investigation Branch. To meet the requirements of the various proposed Wings of the Central Investigating Agency and also to keep proper technical supervision over the work of the Overseers who are being provided in each Branch, we suggest that a post of an Executive Engineer should be sanctioned for the Head Office of the Special Police Establishment. Similarly, in those Branches where work relating to the Departments of Income-tax, Central Excise and Customs is heavy, Inspectors from these Departments may also be taken on deputation. In the big and more important Branches, *viz.* Bombay, Calcutta and Madras need is constantly felt for scrutiny of account books etc. We suggest that for each of these three Branches one Junior Technical Officer (Accounts) should be sanctioned.

Ministerial Staff

10.50. On account of increase in the Executive and Prosecuting Staff and in the volume of work generally it would be necessary to make additions to ministerial staff also. The requirements of ministerial staff for the new Branches and for the Wings of the Central Investigation Agency which we have suggested are given in Annexure XVI. It would not be possible for these Branches to start functioning until ministerial staff is sanctioned for them and, therefore, it is necessary to sanction the ministerial staff also for these Branches along with the sanction for Executive and Prosecuting staff. For the other Branches we have not worked out the requirements of ministerial staff. This can be done by the Department itself after decisions have been taken on the suggestions for increase in the strength of Executive and Prosecuting staff.

We have been informed that the trial of cases is sometimes held up on account of delay in the supply of copies of documents and statements to accused persons as required by law. We consider it

necessary that adequate typing staff should be available for this purpose and we suggest that 2 Lower Division Clerk Typists more should be sanctioned for each of the existing Special Police Establishment Branches.

10.51. We would, however, suggest that a percentage of posts in the Ministerial Cadres of the Headquarters of the Central Bureau of Investigation should be excluded from the Central Secretariat Service. This would open up avenues of promotion for the Ministerial staff of its Branches. It would also make it possible to get better candidates for recruitment in the Branches.

Special Allowances

10.52. It is not possible for the Central Bureau of Investigation to have a complete cadre of its own. It has to take the bulk of its staff on deputation from the States. In order to attract the right type of police officers we strongly recommend that the scale of Special Pay/Allowance admissible in the Special Police Establishment should be improved so that the total emoluments are commensurate with the important and difficult duties which they have to perform.

Housing

10.53. There is also difficulty in getting residential accommodation for officers of the Special Police Establishment. This is felt particularly in the large cities like Delhi, Bombay, Calcutta and Madras. It is necessary to make the Special Police Establishment officers independent in this matter so that they do not have to place themselves under any obligation in getting residential accommodation. We suggest that a special pool of residential houses should be allotted to them. Where Government houses are not available, buildings may be taken on rent by the Government and given to Special Police Establishment Officers.

SECTION 11

SOCIAL CLIMATE

11.1. By the sixth term of reference, the Committee has been asked to recommend measures that would conduce to the creation of a social climate both among public servants and in the general public in which bribery and corruption may not flourish. In the previous Sections, we have dealt with the nature of corruption, its various forms, preventive and administrative measures and legal instruments needed to tackle it. But in the long run, the fight against corruption will succeed only to the extent to which a favourable social climate is created. When such a climate is created and corruption becomes abhorrent to the minds of the public and the public servants and social controls become effective, other administrative, disciplinary and punitive measures may become unimportant and may be relaxed and reduced to a minimum. However, change in social outlook and traditions is necessarily slow and the more immediate measures cannot be neglected in its favour.

11.2. There is a large consensus of opinion that a new tradition of integrity can be established only if the example is set by those who have the ultimate responsibility for the governance of India, namely, the Ministers of the Central and State Governments. The problem is difficult and delicate. Ministers are necessarily the leaders of the political party which succeeds in obtaining a majority in elections based on adult suffrage. There is a widespread impression that failure of integrity is not uncommon among Ministers and that some Ministers who have held office during the last 16 years have enriched themselves illegitimately, obtained good jobs for their sons and relations through nepotism, and have reaped other advantages inconsistent with any notion of purity in public life. The general belief about failure of integrity amongst Ministers is as damaging as actual failure. That these Ministers have held office in the name of the Indian National Congress which had evolved the highest notions of personal integrity and service under the inspiration of Mahatma Gandhi has given rise to an exaggerated view of their failure to maintain high standards of integrity. It is a pity that neither the Congress authorities nor the great leaders who took over the Government of India realised the importance of evolving a suitable machinery and procedure for preventing and dealing with such corruption. We are convinced that ensuring absolute integrity on the part of Ministers at the Centre and the

States is an indispensable condition for the establishment of a tradition of purity in public services. Therefore, in the interest of the future of public life we consider that the following steps should be taken:—

(1) A code of conduct for ministers including the provisions suggested by us for public servants relating to acquisition of property, acceptance of gifts and disclosure of assets and liabilities should be drawn up. This code of conduct should be placed before Parliament and State Legislatures. The Prime Minister and Chief Ministers should consider themselves responsible for enforcing the code of conduct.

(2) Specific allegation of corruption on the part of a Minister at the Centre or a State should be promptly investigated by an agency whose findings will command respect. We recognise that irresponsible allegations cannot be taken serious note of. We, therefore, suggest that if a formal allegation is made by any 10 members of Parliament or a Legislature in writing addressed to the Prime Minister or Chief Minister, through the Speakers and Chairmen, the Prime Minister or Chief Minister should consider himself obliged, by convention, to refer the allegations for immediate investigation by a Committee as has been suggested later in this Section.

This would be in addition to the responsibilities of the Prime Minister and Chief Ministers of States to take note of allegations made in the Press or which otherwise come to their notice. In respect of such allegations also the Prime Minister and the Chief Ministers should be free to refer the matter to the proposed Committee. In all other cases the Ministers against whom the allegations are made should, as a rule, institute legal proceedings by filing a complaint for criminal defamation and the Ministers concerned should be given legitimate assistance by the Government of which they are Ministers.

In cases where the Ministers are unwilling to take legal action, the Prime Minister or the Chief Ministers of States, as the case may be, should consider themselves, obliged by convention, unless there is irrefutable proof of the integrity of the Minister concerned, to advise the President or the Governor, as the case may be, to withdraw his pleasure. which would mean the Minister will have to go out of office, unless he himself resigns.

11.3. We considered carefully the suggestion that the Central Vigilance Commission should deal with allegations against Ministers. We are unable to accept the suggestion. It will be fatal to the usefulness of the Commission to be involved in matters likely to engender political passion and prejudice, an inquiry against a Minister is bound to give rise to. For the same reason we do not think that any permanent tribunal should be established for this purpose. We consider that the appropriate course would be for the President to constitute on the advice of the Prime Minister a national panel. Whenever allegations against a Minister require to be inquired into an *ad hoc* Committee should be selected out of this national panel by the President. The Committee may consist of three persons one of whom at least should have held or should be holding a high judicial office. It should be the duty of the Committee to ascertain whether there is a *prima facie* case. The Committee should have the power to direct the Central Bureau of Investigation, in suitable cases, to investigate and report. If the Committee wishes to make any inquiries otherwise than through the Central Bureau of Investigation it should be given all the necessary facilities and assistance including free access to all documents, files etc., without being hampered by any claim of privilege. On the completion of the inquiries either through the Central Bureau of Investigation or otherwise the Committee should consider the available material and advise as to further action, if any, that may be necessary. It may advise that a regular case be registered for investigation with a view to prosecute the Minister concerned or a commission of inquiry under the Commissions of Inquiry Act, 1952 be appointed. If the Committee makes such a recommendation the Minister should resign as a matter of convention and should remain out of office till the completion of the proceedings. If the Minister is found guilty of the allegations or is found to have been corrupt he should be dismissed and should also become ineligible for becoming a Minister or for holding any elective office. The necessary legal instruments for giving effect to this provision should be brought into existence. Until such time as the necessary legislation is made, there should be a convention which would give effect to this provision. As publicity would be an effective instrument there should be a convention that the findings of the Committee would be placed before Parliament or the State Legislatures. We are aware that certain difficulties may arise out of the existing law of defamation. Suitable legal provisions should be made to afford protection from proceedings for defamation in regard to the proceedings and the findings of the Committee.

11.4. Next to the Ministers, the integrity of Members of Parliament and of legislatures in the States will be a great factor in creating a favourable social climate against corruption. We are aware

that the vast majority of members maintain the high standards of integrity expected of them. Still it has been talked about that some Members use their good offices to obtain permits, licences and easier access to Ministers and officials for industrialists and businessmen It may be that some legislators are in the employment of private undertakings for legitimate work. In such cases it is desirable that such employment should be open and well known and should be declared by the legislators concerned. It should be a positive rule of conduct that such legislators should not approach Ministers or officials in connection with the work of their employers and they should refrain from participating in the discussion or voting on demands or proposals in which their firms or undertakings are interested. Other legislators, who are not such *bonafide* employees,, should on no account undertake, for any valuable consideration or other personal advantage, to promote the interests of or obtain favours for any private party either in the legislature or with Government. It is desirable that a code of conduct for legislators embodying these and other principles should be framed by a special committee of representatives of Parliament and the legislatures nominated by the Speakers and Chairmen. This code should be formally approved by resolutions of Parliament and the legislatures and any infringement of the code should be treated as a breach of privilege to be inquired into by the Committee of Privileges, and if a breach is established, action including termination of membership may be taken Necessary sanctions for enforcing the code of conduct should also be brought into existence.

11.5. The public belief in the prevalence of corruption at high political levels has been strengthened by the manner in which funds are collected by political parties, especially at the time of elections. Such suspicions attach not only to the ruling party but to all parties, as often the opposition can also support private vested interests as well as members of the Government party It is, therefore, essential that the conduct of political parties should be regulated in this matter by strict principles in relation to collection of funds and electioneering. It has to be frankly recognised that political parties cannot be run and elections cannot be fought without large funds. But these funds should come openly from the supporters or sympathisers of the parties concerned.

If even one family in three pays one rupee a year to a political party, the total annual contribution will be more than what is needed for all legitimate purposes of all political parties in India. It is the reluctance and inability of these parties to make small collections on a wide basis and the desire to resort to short cuts through large donations that constitutes the major source of corruption and even more of suspicion of corruption.

In this connection, we do not feel it useful for India to be content to follow the precedence of other democratic countries. It has to be remembered that U.K., U.S.A. and other democratic countries did not start with a full-fledged democratic constitution based on adult franchise. They had a long period to develop their political system and evolve a proper code of conduct. India has to substitute this natural process by quicker and more rational measures.

We consider that, in Indian conditions, companies should not be allowed to participate in politics through their donations. It is true that this matter was debated at length during the discussion on the Companies (Amendment) Act of 1960 and it was decided to permit such donations subject to restrictions of amount and condition of publication. We do not think that this is sufficient and feel that nothing but a total ban on all donations by incorporated bodies to political parties and purposes will clear the atmosphere.

11.6. One other step which we feel is essential in this connection is that all political parties should keep a proper account of their receipts and expenditure and should publish annually an audited statement of such accounts giving details of all individual receipts. We do not see why any political party should object to this provision, and as it may not be easy to ensure compliance through voluntary agreement, simple legislation obliging the keeping of such accounts and its publication may be necessary. We do not suggest that there should be any restriction whatsoever on the formation and functioning of political parties other than this sole requirement. Failure to conform to such obligation should debar a political party from recognition by the Election Commission, the postal authorities and banks. Those who receive donations for unauthorised political parties or for themselves for political purposes should have to account for them in their own private accounts, and include them in their total income for purposes of income-tax. Regular maintenance of accounts and publication will by itself enforce a minimum degree of good behaviour on the part of all political parties.

11.7. The press can do a great deal to create a proper social climate for the public services. It is certainly the privilege of every free newspaper to expose or condemn corruption on the part of public servants or their failure to perform their duties properly. If the Central and State Governments make it a point to scrutinise carefully all complaints and allegations appearing in responsible newspapers and investigate them thoroughly, it will enable the press to assist actively in the purification of public life. Editors and reporters should be encouraged, under pledge of secrecy, to communicate to the Chief Vigilance Officers or the Central Vigilance Commission about suspected corrupt practices, and all such reports should be

promptly inquired into. The press should be informed of the results of the prosecution and departmental inquiries relating to corruption on the part of officials, particularly if they relate to officers holding responsible posts.

11.8. While responsible newspapers should thus be encouraged to assist the public against corrupt officials, drastic action should be taken against irresponsible newspapers which make reckless allegations. It should become an invariable practice to prosecute such newspapers unless they can establish the truth of their allegations. It should not be left to individual officers or Ministers to take such action. The existing law and procedure will have to be reviewed from this point of view.

11.9. There are many public organisations which may be willing to assist the Government in preventing or punishing bribery, nepotism and other corrupt practices. Such organisations should be invited to cooperate with the Government. The reports from such organisations should be protected and they should be treated as confidential unless the organisations concerned agree to their publication.

11.10. Similarly, the responsible heads of the Panchayat Raj institutions, namely the Sarpanches, the Chairmen and Presidents of the Panchayat Samitis and the Zila Parishads should consider it as part of their duties to report to Government all cases in which corrupt practices are suspected. The enthusiasm of these persons can be maintained only if their reports are given prompt and serious consideration, and they are informed of the results of investigations based on such reports.

11.11. While it is essential that the honest officials should be fully protected, it is desirable to create a situation in which those officials who have been found guilty of corruption feel not only that they have lost their jobs but also feel socially degraded.

11.12. A similar mobilisation of public opinion against persons who corrupt the officials or evade taxes, or indulge in other anti-social practices is necessary. In another Section we have suggested some legislative provisions. The Central and the State Governments should maintain lists of such persons and they should not be invited to official functions. Particular care should be taken to avoid any situation which may give rise to an impression that such persons enjoy the confidence, support or patronage of Ministers and high officials.

11.13. These suggestions are not to be considered as exhaustive. It should be one of the important functions of the Central Vigilance Commission to explore all possible methods of mobilising public opinion against corruption in public life and public services. It should become the fearless champion of integrity and fair-dealing.

SECTION 12

MISCELLANEOUS

12.1. We did not extend our inquiries to the departments and establishments under the Ministry of Defence. The expenditure on defence is of the order of 700 crores. In the purchases, constructions and other activities in connection with defence there is a large scope for corruption and misuse of funds. But in view of the emergency and the need for secrecy in relation to many of these matters, and also with a view to early completion of our report, we have left the problem of corruption in the Ministry of Defence and its establishments to be considered by a separate committee at an early date. Meanwhile, our general recommendations relating to conduct rules, disciplinary rules, preventive measures and procedural matters relating to contracts, purchases, etc. will apply to the Ministry of Defence except in so far as other provisions have been made in the Army, Navy and Air Force Acts.

12.2. We did not consider the judiciary to be included in our terms of reference. Except the Supreme Court and some subordinate courts in the Union Territories, the Government of India have no direct relation with the administration of the judiciary except that appointment of High Court Judges is made by the President. It has to be borne in mind, however, that all courts in India are common to the Centre and the States and can entertain and decide cases relating to exclusively Central subjects. Therefore, integrity of the judiciary is of paramount importance even for the proper functioning of the Central Government.

Though we did not make any direct inquiries, we were informed by responsible persons including Vigilance and Special Police Establishment Officers that corruption exists in the lower ranks of the judiciary all over India and in some places it has spread to the higher ranks also. We were deeply distressed at this information. We, therefore, suggest that the Chief Justice of India in consultation with the Chief Justices of the High Courts should arrange for a thorough inquiry into the incidence of corruption among the judiciary, and evolve, in consultation with the Central and State Governments, proper measures to prevent and eliminate it. Perhaps the setting up of vigilance organisation under the direct control of the Chief Justice of every High Court coordinated by a Central Vigi-

lance Officer under the Chief Justice of India may prove to be an appropriate method.

12.3. Universities are the main sources of supply of officers for our public services, especially at the higher levels. It is, therefore, of supreme importance that they should set standards of integrity which will become an integral element of the intellectual and psychological outfit of every graduate. It is a matter of great regret that in some universities, conditions are far from satisfactory for the admission of students, recruitment of lecturers and professors and the general management of university funds. We suggest that the University Grants Commission and the Inter-University Board should take immediate steps to institute an inquiry into the malpractices that may be prevailing in the universities, and evolve measures to fight them.

12.4. The Central and State Governments are giving financial assistance in the form of grants and loans to many scientific, educational, artistic and cultural organisations and associations. An important condition of such assistance should be that these bodies are free from any corrupt practices and measures, including audit, should be devised to enforce this condition.

12.5. It is a matter of serious concern that at present education is thought of merely as a process of sharpening the human brain with a view to utilising it for materialistic ends. For a country like India, development of her material resources and the raising of the standard of life of all classes are, indeed, imperative. At the same time, the deterioration in the standards of public life has to be arrested. Ways and means have to be found to ensure that idealism and patriotism have their proper place in the ambitions of our youth. The lack of moral earnestness, which has been a conspicuous feature of recent years, is perhaps the greatest single factor which hampers the growth of strong traditions of integrity and efficiency.

SECTION 13

CONCLUSION

13.1. We have now covered all the terms of our reference. In the opening Section, the limitations of our inquiry have been indicated. Far from considering that our report gives a blueprint for the fight against corruption, we think that it indicates only the first moves in that direction and sketches the mere skeleton of the measures and organisation needed for the purpose.

13.2. While it is possible to deal quickly with some forms of corruption, it is in general a long-term problem which requires firm resolve and persistent endeavour for many years to come. As our economy expands, it is likely that fresh points of weakness may appear. Unremitting vigilance is needed to anticipate or at least to spot them as soon as they emerge, and deal with them promptly. In a democracy, it is the Parliament that is the ultimate guardian of national integrity. We earnestly hope that the newly appointed Central Vigilance Commissioner will get whole-hearted support from it for his activities.

13.3. In all our inquiries, we have received full cooperation from the Secretaries, Heads of Departments and other officers whose assistance was required. We are grateful to all of them. We are no less grateful to the many non-officials and representatives of business organisations and trade unions who came forward to give evidence before us.

Chairman

K. Santhanam, M.P.

Sd/- ....

Members

2. Santosh Kumar Basu, M.P.

Sd/- ....

3. Tika Ram Paliwal, M.P.

Sd/- ....

4. R. K. Khadilkar, M.P.

Sd/- ....

5. Nath Pai, M.P.

Sd/- ....

6. Shambu Nath Chaturvedi, M.P.

Sd/- ....

7. L. P. Singh, Director, Administrative Vigilance Division.

Sd/- ....

8. D. P. Kohli, Inspector General, Special Police Establishment.

Sd/- ....

New Delhi-11,
The 31st March, 1964.
11th Chaitra, 1886 (Saka).

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

Section 4:

1. The existing rules governing the conduct of Government servants did not make any radical changes in the rules that were in force prior to the commencement of the Constitution with the result that in respect of many matters the rules were either silent or inadequate.

(Paras. 4.2 and 4.3).

2. The rules pertaining to integrity should be uniform.

(Para. 4.5)

3 The more important changes recommended are:

(1) A duty has been cast on Government servants holding supervisory posts to keep a watchful eye on the integrity of the staff working under them.

(2) Every Government servant should take full responsibility for his actions and orders, except where he acts under the directions of his official superior.

(3) The conduct expected of every Government servant in case of conflict between public duty and private interest has been clearly stated in Rule 3(A) which brings out some of the points that were hitherto implied but left unsaid.

(4) Rule 10 deals with the question of receipt of gifts and states the position more precisely and also liberalises the existing rules so as to prevent too much interference in private life. The financial limits have been suitably modified.

(5) Government servants should submit periodically a complete statement of their assets and liabilities instead of the annual immovable property statements which have been found to serve no useful purpose. In these periodical statements the value of movable property except articles of daily use, like clothes, utensils, crockery and books should be stated including the value of jewellery.

(Para. 4.7).

4. The need for continuance of the exemptions granted in 1959 to industrial employees drawing a pay of Rs. 500/- or less and holding non-gazetted posts may be re-examined and in the meantime the exemptions may continue to be in force.

(Para. 4.8).

5. The rules may apply to Government servants appointed to any civil service or post in connection with the affairs of the Union.

(Para. 4.9).

6. While the manner of promulgation of the rules is a matter of detail any modification or liberalisation of the rules should be made *only in consultation* with the Central Vigilance Commission and' with the concurrence of the Ministry of Home Affairs.

(Para. 4.5).

Section 5:

7. The Constitutional protection given to Government servants by Article 311 which limits the doctrine of pleasure was first given only by the Government of India Act, 1935.

(Para. 5.2).

8. Judicial interpretation of Article 311 of the Constitution has resulted in making disciplinary proceedings highly involved.

(Para. 5.7).

9. The latest amendment of Article 311 has not improved the position. It would not be an unreasonable classification to treat disciplinary proceedings involving charges of bribery, corruption and lack of integrity as a separate category and to provide for a simplified procedure. Article 314 should not come in the way of dealing effectively with members of the former Secretary of States Services. In such cases the jurisdiction of courts should be limited. Another clause somewhat on the following lines may be added as Clause (4) to Article 311:—

> "Notwithstanding anything contained in Parts III, IV, VI and XIV of the Constitution, Parliament may, by law, regulate all matters relating to maintenance of integrity and honesty in the services and posts under the Union and States, including the jurisdiction of Courts in respect of such matters".

The power to legislate in this behalf should be added as an item in List I of Schedule VII of the Constitution.

(Para. 5.8).

10. In view of the Constitutional requirements and judicial pronouncements it is not possible to radically simplify the procedure unless the Constitution is suitably amended.

(Para. 5.9).

11. The more important of the recommendations contained in the interim report dated August 23, 1963 (Annexure IV) are:—

(i) There should be only one set of Discipline and Appeal Rules in respect of Government servants serving in connection with the affairs of the Union or appointed by the Union Government. The definition of the term "Government servant" has therefore been enlarged to include members of the All India Services;

(ii) the President may impose any of the prescribed penalties and institute disciplinary proceedings against any Government servant including a member of the All-India Service (Rule 8) or direct a disciplinary authority to institute such proceedings [Rule 9(1)];

(iii) the Central Government may institute proceedings against a member of an All-India Service if the circumstances of the case are such that the Central Government is satisfied that it would be in public interest to institute such proceedings provided that before doing so the Central Government shall consult the State Government;

(iv) The power to institute departmental proceedings has been given to the President, specified disciplinary authorities and such other authorities as may be empowered by the President by general or special order. (This last recommendation was made in view of the recommendation of the Committee that the Directorate of Vigilance of the Central Vigilance Commission should have the power to determine the nature of disciplinary proceedings to be initiated and to initiate, conduct and complete such proceedings. Though in the scheme of the Central Vigilance Commission, as accepted by the Government, the power to

initiate, conduct and complete such proceedings has not been given to the Central Vigilance Commission, the provisions made in the rules may be allowed to stand).

(v) The penalties of withholding or withdrawing in full or in part the pension which can now be imposed under Civil Services Regulation 351(A) and Rule 8 of the All India Services (Death-*cum*-Retirement Benefits) Rules, 1958 have been included in the categories of penalties prescribed under Discipline and Appeal Rules and the procedure for imposing such penalties has been made part of the Discipline and Appeal Rules.

(vi) The requirement of the accused officer submitting a written statement of defence after the framing of charges has been dispensed with.

(vii) The rules relating to suspension, regulation of the period of absence from duty after reinstatement of an officer who had been dismissed, removed or suspended provide for removal of certain difficulties that have arisen out of some recent pronouncements of the courts.

(viii) The requirement of submitting an appeal or a memorial through the authority which passed the order which is subject matter of the appeal or memorial has been dispensed with to minimise delay.

(Para. 5.11).

12. The Government should have the power to compulsorily retire a Government servant who has completed 25 years of qualifying service or has attained 50 years of age without giving any reason and without any liability for special compensation.

There should be a committee with the Central Vigilance Commissioner as the Chairman and two Secretaries to Government as members to review the cases of all gazetted officers who are due to complete 25 years of qualifying service or to attain 50 years of age during the ensuing year and recommend the names of the officers who are to be compulsorily retired.

There should be one or more committees, State-wise or Departmentwise, as may be convenient, with a nominee of the Central Vigilance Commissioner as the Chairman of each Committee to review such cases in regard to non-gazetted employees and make appropriate recommendations.

(Para. 5.14).

13. The Central Government should have the power to take action under Rule 17 (as amended in May 1963) and Rule 20 of the All India Services (Death-*cum*-Retirement Benefits) Rules; 1958, after consultation with the State Government concerned.

(Para. 5.20).

Section 6:

14. Preventive measures, administrative, legal, social, economic and educative, should be carefully planned and effectively implemented.

(Para. 6.1).

15. A systematic and thorough review of the laws, rules, procedures and practices should be undertaken for the purpose of listing (a) discretionary powers (b) levels at which such powers are exercised (c) the manner of exercise of such powers (d) the control exercised within the hierarchy over the exercise of such powers (e) the points at which citizens come into contact with the Ministry/Department and the purposes for which they do so.

(Para. 6.2).

16. A thorough study should be made in respect of each Ministry/Department/undertaking of the extent, the possible scope and modes of corruption, preventive and the remedial measures prescribed, if any, and their effectiveness. Such studies should be started on a priority basis in respect of each Ministry/Department/undertaking and the Central Vigilance Commission should also pay attention to this important piece of work for which purpose Government may provide the necessary staff and other facilities.

(Para. 6.3).

17. Serious thought should be given as to how trade associations or their representatives could be associated in the matter of granting licences and allocation of scarce goods. Membership of a recognised trade organisation should be a necessary condition of eligibility for obtaining a licence or a permit. The organisation should screen the capacity of the applicants, their past performance and conduct and make recommendations to the licensing authority. These organisations may also be usefully associated in investigating modes of misuse and mis-utilisation of goods obtained under licence and modes of manipulation of prescribed rules, procedures and forms for obtaining undeserved advantage.

(Para. 6.4).

18. Administrative delay must be reduced to the utmost extent possible and firm action should be taken to eliminate all such causes of delays as provide scope for corrupt practices.

(a) Each Ministry/Department/undertaking should immediately undertake a review of all existing procedures and practices to find out the cause of delay, the points at which delay occurs and to devise suitable steps to minimise the possibility of delay.

(b) Time-limits should be prescribed, if not already done, for dealing with receipts, files etc., and these should be strictly enforced. Superior officers should consider it their responsibility to find out whether in any particular matter there has been any avoidable delay and call the persons responsible for the delay to account.

(c) All notings at the level lower than that of Under Secretaries should be avoided. The responsibility of the Section should be only that of putting up previous papers and precedents. This procedure should be strictly observed in Ministries/Departments which have to deal with the grant of licences or permits of various kinds.

(d) The levels at which substantive decision could be taken should be prescribed and any attempt to involve as many as possible should be discouraged and dealt with severely, if found to be persisted in.

(Para. 6.6.1).

19. In all those fields where Government interferes to regulate and control there is scope for abuse. It would be desirable for each Ministry/Department to undertake a review of the regulatory functions which are its responsibility and also examine whether all of them are necessary and whether the manner of discharge of those functions and of the exercise of powers of control are capable of improvement.

(Para. 6.6.2).

20. Discretionary powers are exercised by different categories of Government servants all of whom are not endowed with a high sense of dedication and integrity in equal measure. While it would not be possible to completely eliminate discretion it should be possible to devise a system of administration which would reduce to the minimum, even if there is a seeming loss of perfection, the need for exercise of personal discretion consistently with efficiency and speedy disposal of public business. Various methods of control devised in

the more advanced countries should be studied and a suitable system of control should be devised keeping in view the difficulties that may arise on account of the vastness of our country and the basic principles which are enshrined in our Constitution and jurisprudence.

(Para. 6.6.3).

21. As many of the citizens of our country who have to seek the help of the administration in many matters are not equipped or trained, they find it necessary to seek the assistance of touts and intermediaries. A serious attempt should be made to educate the citizens in regard to such matters and also make suitable arrangements which would provide an easy access to administration without the intervention of touts and intermediaries.

(Para. 6.6.4).

22. It may be worthwhile in the country's interest to examine whether the categories of officials who have to exercise considerable discretion in matters relating to taxation, issue of valuable permits and licences, or otherwise deal with matters which require high degree of integrity, should not be given special attention regarding status and emoluments. Undue economy in the number of officers is not desirable. It would be worthwhile to review the proportion of direct recruits and promotees in the various services as there is a general belief (we do not fully endorse any sweeping generalisation on this point) that the standard of integrity of direct recruits is comparatively higher.

(Para. 6.8).

23. Housing and medical facilities for the Government servant and his family and facilities for the education of his children should be provided.

Till such time as Government is able to construct the required accommodation houses should be requisitioned or taken on lease and let to the Government servants.

Accommodation should, to the extent possible, be in colonies.

(Paras. 6.9 and 6.10).

24. Informal codes of conduct for different categories of Government servants working in Ministries/Departments dealing with the economic affairs of the country and which spend large sums of monies on construction and purchases should be compiled regarding participation in entertainment and availing themselves of other facilities from those who may have or are likely to have official dealings with them The example must be set by superior officers.

(Para. 6.11).

25. Every officer of superior status under whom a number of Gazetted officers are working directly should take steps to ascertain personally whether there is any reason to doubt or suspect the integrity of any of these officers.

(Para. 6.12).

26. Some of the other preventive measures are:—

(i) Great care should be exercised in selecting officers for appointment to high administrative posts. Only those whose integrity is above board should be appointed to these posts.

(ii) At the time of making selections from Non-Gazetted to Gazetted ranks for the first time all those whose integrity is doubtful should be eliminated.

(iii) Every officer whose duty is to sponsor a name for promotion should be required to record a certificate that he had seen the record of service of the Government servant and he is satisfied that the Government servant is a man of integrity.

(iv) Exigencies of public service require grant of extension or re-employment of Government servants who have attained the age of superannuation and are about to retire or retired. Such servants are also employed in the public sector undertakings. We recommend that an essential condition for the grant of extension or re-employment should be that the person concerned has had a good reputation for integrity and honesty. If this condition is not fulfilled the person concerned should not be considered eligible for grant of extension or re-employment.

(v) A good deal of harm is done by vague talk about corruption. This can be reduced only if there are agencies which a person with a genuine complaint can approach for redress, with the assurance that he will be fully protected and that prompt and adequate action will be taken where found justified. The Central Vigilance Commission and the Vigilance organisation should be able to meet this need in matters relating to complaints of corruption, harassment, etc. It is essential that *bona fide* complainants should be protected from harassment or victimisation. The Ministry of Home Affairs should consider itself as having a special responsibility in this regard.

(vi) Enquiry-*cum*-Reception Offices should be established in all Ministries/Departments which deal with licences/permits and to which members of the public frequently

go. All visitors should enter their names and the purpose of their visit in a register to be kept at the Reception Office.

(vii) Steps should be taken to prevent sale of information. One of the causes of this type of corruption is the undue secrecy maintained in regard to all types of matters in respect of which it is not necessary to do so. A clear distinction should be made as to what information should be treated as "secret" and what should be made freely available to the public. Any member of the public who wants to have information of the latter category should be able to approach some specified officer in each Ministry/Department/undertaking for that purpose and get what he wants.

(Para. 6.13).

27. Difficulties are experienced in obtaining the necessary forms required to be submitted for obtaining licences/permits etc. Arrangements should be made for easy supply of forms whether free or on payment.

(Para. 6.14).

28. There is a column in the annual confidential report regarding every public servant where the superior officer has to comment on his integrity. In cases where the reporting officer is not in a position to make a positive report about integrity he should leave the column blank and submit a secret report if he has reasons to doubt the integrity of the officer on whom he is reporting stating the reasons for his suspicions. The Government or the heads of Department who receive such secret reports should take suitable steps to find out the correctness or otherwise of the report.

(Para. 6.15).

29. There should be a complete ban against Government servants accepting private commercial and industrial employment for two years after retirement. Reasons have been given in the interim report dated 20th December, 1963 (Annexure V).

(Para. 6.16).

30. The existence of large amounts of unaccounted black money is a major source of corruption.

(Para. 6.17).

31. There is no justification to treat income-tax returns and assessments as secret. Publication of such returns and assessments would

have a salutary effect on those persons in business and professions who are inclined to take advantage of secrecy provisions to evade income-tax.

(Para. 6.18).

32. To buy and sell properties at prices much greater than those recorded in the conveyance deeds has become a common method of cheating the Central Government of income-tax and other taxes and the State Government of the stamp duty and a convenient method of transferring black money. If, in some manner, the Central and State Governments, or some special corporations set up for the purpose can be empowered to step in and acquire such properties at the stated value, or even at a small premium when it is considered that the properties have been deliberately under-valued, it will strike a blow against black money.

The habit of charging "pugri" or "premium" for renting houses and flats is a similar source of corruption for which some drastic steps have to be taken.

(Para. 6.19).

33. (i) No official should have any dealings with a person claiming to act on behalf of a business or industrial house or an individual unless, he is properly accredited, and is approved by the Department, etc. concerned. Such a procedure will keep out persons with unsavoury antecedents or reputation. There should, of course, be no restriction on the proprietor or manager, etc. of the firm or the applicant himself approaching the authorities.

(ii) Even the accredited representatives should not be allowed to see officers below a specified level—the level being specified in each organisation after taking into consideration the functions of the organisation, the volume and nature of the work to be attended to, and the structure of the organisation. However, care should be taken to limit permissible contacts to levels at which the chances of corruption are considered to be small. This would often mean that no contact would be permitted at the level of subordinate officers.

(iii) There should be a system of keeping some sort of a record of all interviews granted to accredited representatives.

(iv) There should be a fairly senior officer designated in each Department to which an applicant etc. may go if his case is being unreasonably delayed.

It is necessary that a proper procedure should be devised in consultation with the Central Vigilance Commission for accrediting and approval by the Department. Before granting approval the antecedents of the person proposed to be accredited should, if possible, be verified. In any case no person who is not definitely employed by an established undertaking, who will be responsible for his contact and actions, should be approved.

(Para. 6.20).

34. Officers belonging to prescribed categories who have to deal with these representatives should maintain a regular diary of all interviews and discussions with the registered representatives whether it takes place in the office or at home. The general practice should be that such interviews should be in the office and if it takes place at home, reasons should be recorded Any business or discussion which is not so recorded should be deemed to be irregular conduct, of which serious notice should be taken by the superiors.

(Para. 6.21).

35. Companies and businessmen should be obliged to keep detailed accounts of the expenditure in their expense account. Whenever an income-tax officer feels that amounts have been spent for entertaining high officials, or other purposes for which satisfactory explanation is not forthcoming, it should be his duty to refer the matter to the Chief Vigilance Officers in the department concerned. If there is any legal difficulty for passing on such information, under the present law, it should be removed.

(Para. 6.22).

36. It will be desirable to create a special cell in the Home Ministry consisting of representatives from All India Radio, Press Information Bureau and the Films Division to evolve effective propaganda and publicity measures. Representatives of the press may also be associated. The general principles to be followed are:—

There should be no publicity at the time of investigation or during departmental inquiry, but effective and widespread publicity to cases resulting in dismissal, removal or compulsory retirement should be given. In cases of prosecutions before courts, important cases will in the ordinary course be given publicity by the press. What is required is to ensure that true facts and arguments are available to those who edit the cases. The Cell proposed should offer to provide the necessary assistance. A periodical summary, say once in three months, of important cases dealt with either by departmental inquiries or prosecutions in courts should be supplied to the press. It

may also be hoped that the report of the Vigilance Commission which will be placed before Parliament will attract wide publicity.

(Para. 6.23).

Section 7:

37. The Indian Penal Code does not deal in any satisfactory manner with acts which may be described as social offences having regard to the special circumstances under which they are committed, and which have now become a dominant feature of certain powerful sections of modern society. Such offences may broadly be classified into:—

(1) Offences calculated to prevent or obstruct the economic development of the country and endanger its economic health;

(2) Evasion and avoidance of taxes lawfully imposed;

(3) Misuse of their position by public servants in making of contracts and disposal of public property, issue of licences and permits and similar other matters;

(4) Delivery by individuals and industrial and commercial undertakings of goods not in accordance with agreed specifications in fulfilment of contracts entered into with public authorities;

(5) Profiteering, black-marketing and hoarding;

(6) Adulteration of foodstuffs and drugs;

(7) Theft and misappropriation of public property and funds, and

(8) Trafficking in licences, permits etc.

(Para. 7.3).

38. Some of these offences have been made punishable by special enactments. It is desirable to add a new chapter to the Indian Penal Code bringing together all the offences in such special enactments and supplementing them with new provisions so that all social offences will find a prominent place in the general criminal law of the country. Government may consider whether this work should be undertaken by a special legal committee or referred to the Law Commission.

(Para. 7.4).

39. Section 21 of the Indian Penal Code should be amended as stated below:

(i) The words 'public servant' should be defined to mean 'every person in the service or pay of the Government, a local authority or a Corporation established by a Central or State Act, or a Government Company as defined in Section 617 of the Companies Act, 1956 and/or who is remunerated by fees or commission for the performance of any public duty.'

(ii) Every Minister including Ministers of State, Deputy Ministers and Parliamentary Secretaries holding such office in the Union or State Governments.

(iii) The words 'engaged in any trade or industry' may be deleted from the twelfth clause of Section 21 of the Indian Penal Code.

(iv) Any person entrusted with adjudicatory functions in the course of enforcement of any law for the time being in force. (A revised draft incorporating the above amendments is given).

(Para. 7.7).

40. Offering of bribe or attempt to offer bribe should be made a substantive offence and not merely an abetment as at present by adding a new Section in the terms suggested as Section 161A.

(Para. 7.8).

41. Offences under Chapter IX of the Indian Penal Code should be made non-bailable.

(Para. 7.9).

42. The presumptions enunciated in Sections 4(1) and 4(2) of the Prevention of Corruption Act should be made available in respect of Sections 5(1) and 5(2).

(The Committee is suggesting extensive amendments to Section 5)

(Para. 7.11).

43. (i) The words 'in the discharge of his duty' should be deleted from Section 5 of the Prevention of Corruption Act.

(ii) Possession of assets by a public servant disproportionate to his known sources of income for which he cannot satisfactorily account should be brought within the definition

of criminal misconduct and treated as a substantive offence.

(iii) Habitual corrupting of public servants or abetment of such conduct should be made a substantive offence by the addition of a new sub-section.

A draft of Section 5 incorporating the above suggestions is given.

(Para. 7.12).

44. Section 5A of the Prevention of Corruption Act may be amended so as to authorise all Inspectors of the Special Police Establishment and such Officers of similar rank of the Anti-Corruption agencies of the State Governments to be specified by the respective State Governments by general or special orders to make investigations without obtaining the permission of a Magistrate.

(Para. 7.13).

45. Section 4(p) of the Criminal Procedure Code or Section 5 of the Delhi Police Establishment Act may be amended to include Officers of the Special Police Establishment of the rank of a sub-Inspector, an Inspector and a Deputy Superintendent of Police within the definition of 'an officer in charge of a Police Station' so that they may be able to exercise, in the discharge of their functions, in any area in a State any of the powers which an officer in charge of a Police Station can exercise under the Code of Criminal Procedure.

(Para. 7.15).

46. Section 94 of the Criminal Procedure Code and Section 5 of the Bankers' Book (Evidence) Act should be suitably amended to enable the Officers of the Special Police Establishment and/or of the State Anti-Corruption agencies and/or any other officer notified in this behalf by general or special order by the Central or State Government, as the case may be, to obtain certified copies of the accounts and of all other documents relevant to the entries in the books of accounts relating to any person in respect of whom an inquiry or an investigation is being made whether under the provisions of the Code of Criminal Procedure or any other law or rule for the time being in force or in any other manner whatever.

(Para. 7.16).

47. Section 222(2) of the Code of Criminal Procedure may suitably be amended so as to cover offences under Section 5(1)(c) of the Prevention of Corruption Act and dishonest misappropriation of movable property other than money.

(Para. 7.17).

48. Sub-section (6) of Section 251A may be amended to make it obligatory for the accused to file a list of witnesses and documents he proposes to rely upon in his defence immediately after the charge

is framed. There is, however, no objection if such a list is furnished at a subsequent stage but on the closing of the evidence for the prosecution.

(Para. 7.18).

49. A proviso may be added to sub-section (1A) of Section 344 of the Code of Criminal Procedure to provide that adjournment or postponement of trial or inquiry need not be granted or made only on the ground that a party to the proceedings intends to take up in revision before a higher Court the legality, propriety or correctness of an order passed by the Court.

(Para.. 7.19).

50. A proviso may be added to Sections 435 to 439 to provide that higher courts may not grant stay of proceedings without giving a reasonable opportunity to the opposite party to show cause against grant of stay and to require that reasons should be recorded to show that it is not necessary in justice to stay the proceedings.

(Para. 7.20).

51. Section 435 of the Criminal Procedure Code may be amended to provide that the records of the lower court should not be requisitioned without hearing the opposite party or in cases where the purpose could be served by the filing of certified copies.

(Para. 7.21).

52. Section 492 of the Criminal Procedure Code should be amended to empower the Central Government to appoint Public Prosecutors, in any case, or in any specified class of cases.

(Para. 7.22).

53. Section 540 A(2) may be amended to enable the court, in its discretion, to proceed with the trial or inquiry and to record evidence even in the absence of the accused subject to the right of the accused to recall the witnesses for cross-examination.

(Para. 7.23).

54. Section 198B of the Criminal Procedure Code may be amended by—

(i) deleting sub-section (13);

(ii) deleting the words 'other than the offence of defamation by spoken words' in clause (1);

(iii) casting the burden of proving the truth of imputation on the accused; and

(iv) requiring the accused to prove that he acted in good faith and in public interest.

(Para. 7.24).

55. (i) Section 5 of the Imports and Exports (Control) Act, 1947, may be amended so as to raise the punishment provided for thereunder to 2 years rigorous imprisonment and also to make it obligatory to pass the minimum sentence of six months imprisonment except where the court, for reasons to be recorded in writing, considers that a sentence lesser than the minimum should be imposed.

(Para. 7.25)

(ii) A provision may also be made to the effect that the principal office bearers would also be liable for punishment for offences committed by a company or partnership concern or any incorporated body or an association of individuals and that the burden of proving their innocence should lie on them.

(Para. 7.25)

56. Sections 7 and 8 of the Essential Commodities Act may be so amended by the Act by adding the words 'or any direction given under any order made thereunder' after the words 'any order made under Section 3'.

(Para. 7.26)

57. Article 311 of the Constitution may be amended by adding the following clause as clause (4):

> "Notwithstanding anything contained in Parts III, IV, VI and XIV of the Constitution, Parliament may by law regulate all matters relating to maintenance of integrity and honesty in the Services and posts under the Union and States including the jurisdiction of Courts in respect of such matters."

The power to make such legislation should be added as an item in List I of Schedule VII of the Constitution.

(Para. 7.27)

58. Powers to summon and compel attendance of witnesses and production of documents should be conferred on the inquiring authorities in departmental proceedings by suitable legislation.

(Para. 7.28)

59. The need for continuing the provisions prescribing a period of limitation for initiation of any proceeding for any thing done or ordered to be done under the powers given by special enactments such as the Central Excise and Salt Act, 1944, should be examined and if possible be totally done away with; if it is not possible to do so the period of limitation should be enlarged and it should start running from the date of knowledge of the act or order and not from the date of accrual of the cause of action.

(Para. 7.29)

Section 8:

60. The instructions issued by the Ministry of Home Affairs on 27th July 1962 regarding the procedure for dealing with anonymous complaints strike a balance between the view that such complaints should be ignored and the view that they should not be ignored.

(Para. 8.3)

61. Some of the circumstances under which it would be appropriate to place a Government servant under suspension are:—

(1) Cases where an investigation whether by the Police or departmental authorities, has commenced regarding—

(a) any offence or conduct involving moral turpitude;

(b) corruption; embezzlement or misappropriation of Government money; possession of disproportionate assets; misuse of official powers for personal gain;

(c) serious negligence and dereliction of duty resulting in considerable loss to Government;

(d) allegations which, if proved, may result in dismissal, removal or compulsory retirement;

(2) wherever continuance in office will prejudice the investigation, trial or any inquiry (*e.g.*, apprehended tampering with witnesses or documents);

(3) whenever it is decided to prosecute the Government servant for offences which, if proved, are likely to end in his conviction and consequent dismissal, removal or compulsory retirement from public service;

(4) desertion of duty;

(5) refusal or deliberate failure to carry out written orders of superior officers;

(6) where continuance in office is likely to subvert discipline in the office in which the public servant is working;

(Para. 8.5)

62. Some of the principles to be observed in dealing with requests or petitions for withdrawal of a prosecution are:

(1) when once a case is put in a court it should be allowed to take its normal course.

(2) if in any case it becomes necessary to consider a petition for withdrawal such a petition should be disposed of on

the advice of the Central Vigilance Commission, provided that:

(a) the court has not commenced recording evidence.

(b) it is clear from the records that the competent authority had not examined the merits of the case before according sanction; and

(c) facts have come to light which would show that no offence had been committed by the accused.

(Para. 8.8)

63. In the event of a Government servant being convicted by a court, his tenure should forthwith be put an end to even if he has filed an appeal, if the legal advice is that there is no reasonable chance of the conviction being set aside; in other cases, the Government servant should be under suspension.

(Para. 8.9)

64. Consultation with the Union Public Service Commission may be dispensed with in cases where a penalty is proposed to be imposed on the ground of conduct that led to the conviction of a Government servant by a court.

(Para. 8.9)

65. In Ministries/Departments which have to deal with grant of contracts and licenses and which deal with assessment, collection and refund of taxes, d *post facto* scrutiny of disposed of files should be made to find out the nature of mistakes and irregularities as has been done in the Directorate General of Supplies and Disposals.

(Para. 8.10)

66. There should be a machinery for verification of proper fulfilment of conditions of different kinds of licenses granted by Government.

(Para. 8.11)

67. In the Ministries/Departments which have to deal with grant of contracts for construction and supplies, an attempt should be made to classify those matters which are best left to be decided by a Committee and those which are better left to be decided by individual officers.

(Para. 8.12)

68. To the extent possible transaction of Government business should be open and in accordance with declared principles and there should not be any undue secrecy.

(Para. 8.13)

69. Care should be taken to see that non-official institutions which receive grants from Government function properly. These institutions should submit annual reports and audited accounts and it should be the responsibility of some specified officer to certify proper utilisation of Government grants.

(Para. 8.14)

Section 9:

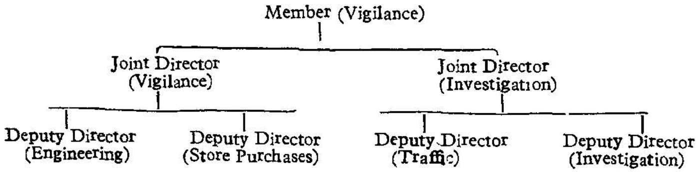
70. The Administrative Vigilance Division functions substantially in an advisory capacity. The time has come to put the entire Vigilance Organisation on a proper and adequate basis without in any way undermining the general principle that the Secretaries and heads of departments are primarily responsible for the purity, integrity and efficiency of their departments.

(Paras. 9.11 to 9.15)

71. Sub-offices of the Central Vigilance Commission may be established at Bombay, Calcutta, Delhi and Madras in charge of serving Government servants of a sufficiently high rank and to discharge such functions and duties as may be allotted to them by the Central Vigilance Commission.

(Para. 9.18)

72. The Vigilance Organisation in the Railways requires to be considerably improved. The Organisation should be reorganised as follows:—



(Para. 9.20)

73. The Joint Director (Vigilance) should ordinarily be an officer belonging to a service other than the Railway Service, preferably an I.A.S. Officer. The Joint Director (Investigation) should be a Police Officer of the rank and status of the Deputy Inspector-General of Police. Adequate investigating staff should be provided at Headquarters.

(Para. 9.21)

74. In the Zonal railways, the Vigilance Officer should have the status of a departmental head and be given full freedom to investigate into complaints received by him.

(Para. 9.22)

75. (i) There should be one Chief Vigilance Officer in each Ministry/Department/Central Corporate undertaking. The Chief Vigilance Officers and the Vigilance Officers should be of a sufficiently high rank so that they may be able to function effectively. There should be Vigilance Officers in all subordinate and attached offices, and in important departments of the public sector undertakings.

The Central Board of Revenue has now been split into two Boards. There shall be two Chief Vigilance Officers in the Ministry of Finance, one for the matters dealt with by the Direct Taxes Board and the other for the matters dealt with by the Indirect Taxes Board.

The Chief Vigilance Officers should be appointed in consultation with the Central Vigilance Commission and the Vigilance Officers in subordinate and attached offices should be appointed in consultation with the Chief Vigilance Officer of the Ministry/Department. No person whose appointment as Chief Vigilance Officer is objected to by the Vigilance Commissioner should be so appointed. The Chief Vigilance Officer and other Vigilance Officers, besides being the link between the Central Vigilance Commission and the Ministry/Department, should, as at present, continue to be the special assistants to the Secretary or the Head of Department/undertaking in combating corruption, misconduct and malpractices in the Ministry/Department/undertaking. The Chief Vigilance Officer will be responsible for coordinating and guiding the activities of other Vigilance Officers in the attached and subordinate offices and other organisations for which his Ministry/Department is responsible.

(ii) Whole-time or part-time assistance of a Deputy Superintendent of Police from the Central Bureau of Investigation may be made available to the Chief Vigilance Officer(s) of each of the Ministries/Departments/undertakings.

(iii) The Chief Vigilance Officers and the Vigilance Officers should have complete independence to investigate complaints of corruption and malpractices.

(iv) Those working in the Vigilance Organisation should have an assurance that good and efficient work in the Vigilance Organisation will enhance their opportunities for promotion and not become a sort of disqualification.

(v) Those posted to the Vigilance Organisation should not have the fear of returning to their parent cadre after a short period with the possibilities of facing the anger and displeasure of those against whom they made inquiries.

(vi) It should be the invariable practice to obtain integrity clearance from the vigilance organisation in matters relating to confirmation and promotion.

(vii) The Chief Vigilance Officers and Vigilance Officers in Departments and establishments having field organisations should have an adequate investigating staff so that such of those complaints or cases which are not handed over to the Central Bureau of Investigation may be investigated by them. The strength of the investigating staff should be determined by each Ministry in consultation with the Central Vigilance Commissioner.

(viii) All departmental proceedings against Class I and Class II officers and other important cases should be entrusted to Commissioners for Departmental Inquiries attached to the Central Vigilance Commission. For this purpose, the number of the Commissioners for Departmental Inquiries should be suitably increased and officers from different departments like Railways, Central Public Works Department, Income-tax, Central Excise and Customs, Posts and Telegraphs should also be appointed as Commissioners for Departmental Inquiries.

(ix) The Chief Vigilance Officers in other Ministries/Departments, the Member, Vigilance, in the Railways and the Chief Vigilance Officers in the Public sector undertakings should have the power to scrutinise the correctness of the findings and conclusions arrived at in a departmental inquiry and the adequacy of punishment and initiate action for review if he considers that the punishment awarded is inadequate. Similarly, the Delhi Special Police Establishment should also be authorised to move for review of findings and punishment in cases started on their report. In all these matters the advice of the Central Vigilance Commission should be freely obtained.

(Para. 9.23)

76. Training Courses should be organised for the Vigilance Officers and the programme for training should include instructions in the various laws and rules, departmental procedures, methods of investigation, including collection of information and processing the same, procedure for departmental proceedings, etc. The syllabus should be devised by the Central Vigilance Commissioner in consultation with the Director of Central Bureau of Investigation. It should be open to the State Governments also to send their officers for training.

(Para. 9.24)

77. It is desirable that the Special Police Establishment should be able to spare some officers for vigilance work and its strength should be reviewed for this purpose.

(Para. 9.25)

Section 10:

78. The wing in the Special Police Establishment which deals in the malpractices and offences occurring in connection with the management of joint stock companies and infringement of import/export regulations should be expanded and strengthened to take up cases of breaches of foreign exchange regulations and important cases of smuggling, evasion of customs duty, under-invoicing and over-invoicing.

(Para. 10.8)

79. In order to secure cooperation between the Special Police Establishment and the Ministries/Departments of the Central Government, separate directives had been issued by the Ministry of Home Affairs, Railway Board and the Army, Naval and Air Headquarters and Defence Production Organisation. These separate directives should be replaced by one single directive issued from the Ministry of Home Affairs for which purpose the Central Vigilance Commission should undertake a review of these directives.

(Para. 10.9)

80. It should be the duty of every Vigilance Officer and head of department and undertaking to report to the Special Police Establishment for investigation of all cases in which allegations of bribery and corruption are made against public servants.

(Para. 10.10)

81. The present practice of obtaining prior concurrence for investigating cases against Railway Gazetted officers should be discontinued.

(Para. 10.11)

82. All records and documents required by the Special Police Establishment should be made available to them for inspection and scrutiny ordinarily within a fortnight and positively within a month from the date of the receipt of the request.

(Para. 10.12)

83. Superintendents of Police in charge of Special Police Establishment Branches should also be authorised to write to the Accountant General concerned direct and to requisition the documents in the possession of audit which are relevant to any inquiry or investigation made by the Special Police Establishment.

(Para. 10.13)

84. In cases where the Special Police Establishment are investigating serious charges, request for transfer of such Government servants should be complied with quickly.

(Para. 10.14)

85. Government servants required for examination by the Special Police Establishment should become available for that purpose quickly.

(Para. 10.15)

86. Requests for statements regarding pay, allowances, etc., of Government servants against whom investigations of the allegation of possession of disproportionate assets are being made should be made available to the Special Police Establishment within a month of receipt of such request by the audit and for this purpose it would be desirable to designate a specified officer whom the Special Police Establishment could approach.

(Para. 10.16)

87. Officers of the Special Police Establishment should be allowed to go to foreign countries whenever inquiries of a complicated nature on important points are necessary, if this is certified by the Central Vigilance Commission.

(Para. 10.17)

88. There should be a Central Organisation to conduct examinations and inspections and to give technical opinion on all cases relating to constructions, works, digging, fillings, etc. irrespective of the Ministry or Department to which they may relate. This Central organisation should include other specialists and should be placed under the Central Vigilance Commission.

(Para. 10.20)

89. Proposals for strengthening the Government Examiner of Questioned Documents Establishment which are reported to be under consideration should be finalised quickly.

(Para. 10.21)

90. Research Centres and Laboratories which are under the control of State Governments should also deal with the request from the Special Police Establisment on a priority basis.

(Para. 10.22)

91. The Central Finger Print Bureau, Calcutta, should undertake comparison and opinion work in Special Police Establishment cases.

(Para. 10.23)

92. Request for granting sanction to prosecute should be dealt with expeditiously.

(Para. 10.24)

93. As a general rule, public servants found guilty of bribery, corruption or other criminal misconduct should be prosecuted in the first instance if the evidence is sufficient for that purpose. In other cases, departmental action should be taken in the first instance and the question of prosecution would not generally arise. Difference of opinion as to whether prosecution in a court or departmental action should be taken in the first instance should be referred to the Central Vigilance Commission for advice.

(Para. 10.25)

94. In all States except one, Special Judges and Magistrates for trying Special Police Establishment cases are notified by a general order but in one State, the State Government have to pass orders allotting each case to a Special Judge or a Magistrate. The practice in this regard should be the same as is followed in all the other States.

(Para. 10.26)

95. If the Special Judge or Magistrate appointed to try Special Police Establishment cases is also allotted other work such a Judge or Magistrate should accord priority to Special Police Establishment cases.

96. All the State Governments should be persuaded to issue instructions that the Special Police Establishment cases should be conducted by the Government Advocate or the Senior Assistant Government Advocate in the High Courts. If this is not possible, the Special Police Establishment should be authorised to engage its own Counsel.

(Para. 10.29)

97. Departmental inquiries against all Gazetted officers should be conducted by Commissioners for Departmental Inquiries. Such inquiries against non-gazetted employees should also be conducted and completed expeditiously.

(Paras. 10.30 & 10.31)

98. In cases investigated by the Special Police Establishment the inquiry record should be made available to the Special Police Establishment quickly so that they may be in a position to review the adequacy of the punishment if the Special Police Establishment recommend a review and, if there is a difference of opinion, the matter should be referred to the Central Vigilance Commission.

(Para. 10.32)

99. Informants and witnesses should be afforded sufficient protection and should be saved from harassment.

(Para. 10.33)

100. The Special Police Establishment should be strengthened and the proposed additional strength is given in Annexures XIV to XVI—

(i) There should be two more posts of Deputy Inspectors-General of Police.

(ii) Branches should be established for the States of Kerala and Jammu & Kashmir.

(iii) There should be a Branch at Ranchi.

(iv) There should be 5 wings of the Central Investigating Agency.

(v) The Special Police Establishment Branches at Delhi, Ambala, Bombay and Madras, should be strengthened to deal with anti-corruption work in the Union Territories.

(vi) There should be a small Special Police Establishment Unit at Manipur with jurisdiction over Manipur and Tripura. This unit should work under the overall control of the Superintendent of Police, Special Police Establishment, Shillong.

(vii) Another post of Deputy Legal Adviser should be created.

(viii) The grade of Assistant Public Prosecutor should be abolished and there should be only two grades, namely, Senior Public Prosecutor and Public Prosecutor.

(Paras. 10.35 to 10.48)

101. Overseers, Sectional Officers of the Central Public Works Department, Railway Engineering Service and the Military Engineering Service may be taken on deputation in the Special Police Establishment in all the branches except the Central Investigating Agency Branch. An officer of the grade of Executive Engineer should be taken on deputation at the head office of the Special Police Establishment.

Inspectors from the Income-tax, Central Excise and Customs Department should also be taken on deputation. One post of Junior Technical Officer (Accounts) should be created in the Branches at Bombay, Calcutta and Madras.

(Para. 10.49)

102. A percentage of posts in the ministerial cadres of the headquarters of the Central Bureau of Investigation shall be excluded from the Central Secretariat Service.

(Paras. 10.50 and 10.51)

103. The scale of special pay/allowances should be improved so that the total emoluments are commensurate with the important and difficult duties which the Special Police Establishment officers have to perform, particularly, in respect of those officers who are taken on deputation.

(Para. 10.52)

104. Adequate housing facilities should be provided for the Special Police Establishment officers and other staff. If Government houses are not available buildings should be taken on rent by Government and given to its officers.

(Para. 10.53)

Section 11:

105. There is a large consensus of opinion that a new tradition of integrity can be established only if the example is set by those who have the ultimate responsibility for the governance of India, namely, the Ministers of the Central and State Governments. In the interest of the future of public life, the following steps should be taken:—

(i) A code of conduct for Ministers including the provisions suggested for public servants relating to acquisition of property, acceptance of gifts and disclosure of assets and liabilities should be drawn up. This code of conduct should be placed before Parliament and States Legislatures. The Prime Minister and Chief Ministers should consider themselves responsible for enforcing the code of conduct.

(ii) Specific allegation of corruption on the part of a Minister at the Centre or a State should be promptly investigated by an agency whose findings will command respect. If a formal allegation is made by any 10 members of Parliament or a Legislature in writing addressed to the Prime Minister or Chief Minister, through the Speakers and Chairmen, the Prime Minister or Chief Minister should consider himself obliged, by convention, to refer the allegations for immediate investigation by a Committee as has been suggested hereinafter.

This would be in addition to the responsibilities of the Prime Minister and Chief Ministers of States *to take note of allegations* made in the Press or which otherwise come to their notice. In respect of such allegations also the Prime Minister and the Chief Ministers should be free to refer the matter to the Committee referred to above. In all other cases the Ministers against whom the allegations are made should, as a rule, institute legal proceedings by filing a complaint for criminal defamation and the Ministers concerned should be given legitimate assistance by the Government of which they are Ministers.

In cases where the Ministers are unwilling, the Prime Minister or the Chief Ministers of States, as the case may be, should consider themselves, obliged by convention, unless there is irrefutable proof of integrity of the Minister concerned, to advise the President or the Governor, as the case may be, to withdraw his pleasure, which would mean the Minister will have to go out of office, unless he himself resigns.

(Para 11.2)

106. The Central Vigilance Commission should not deal with complaints against the Ministers nor would it be desirable to establish any permanent tribunal. The proper course would be for the President to constitute, on the advice of the Prime Minister, a "National Panel". Whenever allegations against a Minister require to be inquired into an *ad hoc* committee should be selected out of this national panel by the President. The Committee may consist of three persons one of whom at least should have held or should be holding a high judicial office. It should be the duty of the Committee to ascertain whether there is a *prima facie* case. The Committee should have the power to direct the Central Bureau of Investigation, in suitable cases, to investigate and report. If the Committee wishes to make any inquiries otherwise than through the Central Bureau of Investigation, it should be given all the necessary facilities and assistance including free access to all documents, files, etc., without being hampered by any claim of privilege. On the completion of the inquiries either through the Central Bureau of Investigation or otherwise the Committee should consider the available material and advise as to further action, if any, that may be necessary. It may advise that a regular case be registered for investigation with a view to prosecute the Minister concerned or a commission of inquiry under the Commissions of Inquiry Act, 1952 be appointed. If the Committee makes such a recommendation the Minister should resign as a matter of convention and should remain out of office till the completion of the proceedings. If the Minister is found guilty of the allegation or is found to have been corrupt,

he should be dismissed and should also become ineligible for becoming a Minister or for holding any elective office. The necessary legal instruments for giving effect to this provision should be brought into existence. Until such time as the necessary legislation is made, there should be a convention which would give effect to this provision. As publicity would be an effective instrument there should be a convention that the findings of the Committee would be placed before Parliament or State Legislatures. Suitable legal provisions should be made to afford protection from proceedings for defamation in regard to the proceedings and the findings of the Committee.

(Para. 11.3)

107. The integrity of Members of Parliament and of the Legislatures in the States will be a great factor in creating a favourable social climate against corruption. It has been talked about that some Members use their good offices to obtain permits, licences and easier access to Ministers and Officials for industrialists and businessmen. In the case of Legislators who are in the employment of private undertakings for legitimate work, it is desirable that such legislators should declare the fact of such employment so that it may be open and known. Such legislators should not approach Ministers or Officials in connection with the work of the employers and also should not participate in the discussion or voting on demands or proposals in which the undertakings or firms are interested. Other legislators, who are not such *bona fide* employees, should on no account undertake, for any valuable consideration or other personal advantage, to promote the interests of or obtain favours for any private party either in the legislature or with Government. It is desirable that a code of conduct for legislators embodying these and the other principles should be framed by a Special Committee of the Parliament and Legislatures nominated by the Speakers and Chairmen. The Code should be formally approved by resolutions of Parliament and the respective Legislatures and any infringement of the code should be treated as a breach of privilege to be inquired into by the Committee of Privileges. If a breach is established, action, including termination of membership, may be taken. Necessary sanctions for enforcing the code of conduct should also be brought into existence.

(Para. 11.4)

108. The conduct of political parties should be regulated by strict principles in relation to collection of funds of electioneering. A total ban on all donations by incorporated bodies to political parties and for political purposes will clear the atmosphere. All political parties should keep a proper account of their receipts and expenditure and should publish annual audited statement of such accounts giving

details of all individual receipts. Failure to do this should debar a political party from recognition by the Election Commission, the Postal authorities and Banks. Those who receive donations for political purposes should have to account for them in their own audit account and include them in their total income for purposes of income-tax.

(Paras. 11.5, 11.6)

109. Central and State Governments should make it a point to scrutinise carefully all complaints and allegations appearing in responsible newspapers and investigate them thoroughly. Editors and reporters should be encouraged under a pledge of secrecy to communicate to the Chief Vigilance Officers or the Central Vigilance Commission about suspected corrupt practices and all such reports should be promptly inquired into. The Press should be informed of the result.

(Para. 11.7)

110. Drastic action should be taken against irresponsible newspapers which make reckless allegations. It should be the invariable practice to prosecute such newspapers unless they can establish the truth of their allegations. It should not be left to individual officers or Ministers to take such action and, for this purpose, the existing law and procedure must be reviewed.

(Para. 11.8)

111. Voluntary public Organisations willing to assist Government in combating corruption should be invited to cooperate with the Government in the fight against corruption. The reports from organisations should be protected and treated as confidential unless the organisations concerned agree to their publication.

(Para. 11.9)

112. The responsible heads of the Panchayat Raj Institutions, namely, the Sarpanches, the Chairman and Presidents of the Panchayat Samities and the Zila Parishads should consider it as part of their duties to report to Government all cases in which corrupt practices are suspected. The enthusiasm of these persons can be maintained only if their reports are given prompt and serious consideration, and they are informed of the results of investigations based on such reports.

(Para. 11.10)

113. It is desirable to create a situation in which those officials who have been found guilty of corruption feel not only that they have lost their jobs but also feel socially degraded.

(Para. 11.11)

114. A similar mobilisation of public opinion against persons who corrupt the officials or evade taxes, or indulge in other anti-social practices is necessary, Ministers and high officials should take particular care to avoid any situation which is likely to create the impression that such persons enjoy their confidence, support or patronage.

(Para. 11.12)

115. It should be one of the important functions of the Central Vigilance Commission to explore all possible methods of mobilising public opinion against corruption in public life and public services. It should become the fearless champion of integrity and fair-dealing.

(Para. 11.13)

Section 12:

116. Our general recommendations relating to conduct rules, disciplinary rules, preventive measures and procedural matters relating to contracts, purchases, etc., will apply to the Ministry of Defence and its establishments except in so far as other provisions have been made in the Army, Navy and Air Force Acts.

(Para. 12.1)

117. The Chief Justice of India in consultation with the Chief Justices of the High Courts should arrange for a thorough inquiry into the incidence of corruption among the judiciary, and evolve, in consultation with the Central and State Governments, proper measures to prevent and eliminate it. Perhaps the setting up of vigilance organisations under the direct control of the Chief Justice of every High Court coordinated by a Central Vigilance Officer under the Chief Justice of India may prove to be an appropriate method.

(Para. 12.2)

118. The University Grants Commission and the Inter-University Board should take immediate steps to institute an inquiry into the malpractices that may be prevailing in the universities and evolve measures to fight them.

(Para. 12.3)

119. An important condition of assistance given to non-official organisations should be that these bodies are free from any corrupt practices and measures, including audit, should be devised to enforce this condition.

(Para. 12.4)

ANNEXURE I

D.O. No. 1/19/62-CPC

Chairman,
Committee on Prevention of Corruption.

New Delhi, November 17, 1962.

My dear Shastriji,

The Committee on Prevention of Corruption met this morning in Room No. 102 at 10.30 A. M. in the Ministry of Home Affairs and considered the special measures needed for the emergency. It came to the conclusion that two sub-clauses should be added to clause 3(2) of the Defence of India Bill, 1962. I am enclosing a copy of the draft clauses. The Committee considered it of great importance that these clauses should be put in to strengthen the hands of Government to fight out all the new forms of corruption that are likely to creep in during the massive war effort. It is needless to say that if you are so advised by the Law Ministry, there is no objection to any verbal or drafting changes.

2. The Committee also considered it necessary to strengthen the Special Police Establishment and I am enclosing herewith the recommendations of the Committee in that connection. I hope it will be cansidered by you as a matter of urgency and speedy action will be taken.

3. I may inform you that both these recommendations were adopted unanimously by the Committee.

Yours sincerely,

Sd: K. Santhanam.

Shri Lal Bahadur Shastri,
Home Minister,
Government of India,
New Delhi.

AMENDMENTS TO DEFENCE OF INDIA BILL, 1962

In sub-clause (2) of clause 3 after item 35 the following two items be inserted:—

"35(a) Prevention of any corrupt practice or abuse of authority or other *mala fide* action in relation to production, storage, purchase, sale, supply or transport of goods for the military or civil purposes of the Government.

35(b) Prevention of cornering, black-marketing, adulteration or other unfair practices and manipulations in relation to goods procured by or supplied to the Government or notified as essential to the life of the community."

RECOMMENDATION REGARDING THE SPECIAL POLICE ESTABLISHMENT

The Committee considered the situation created by the emergency and the additional responsibilities likely to fall on the Delhi Special Police Establishment. Particular attention will have to be devoted to:—

(1) illegal activities and malpractices in various parts of the country in respect of:—

(a) purchase and supplies in connection with the war effort;

(b) construction or other works for defence purposes;

(c) Public Undertakings engaged in producing material or equipment for the Defence Services.

(2) Speculative and unwholesome activities relating to private Joint Stock Companies;

(3) Manipulations and malpractices relating to imports, exports and foreign exchange.

(4) Prevention of bribery, corruption, negligence, loss and wastage connected with the National Defence activities such as the:—

(a) acceptance of supplies and services below standard or a lower quality;

(b) overpayments in short supplies;

(c) fixation and acceptance of rates or prices, higher than those prevalent or appropriate;

(d) purchase of superfluous articles or larger quantities than required.

(e) delay in execution of works or payment of dues with corrupt motives;

(f) favouritism and nepotism in placing orders or engaging services.

To cope up with these additional responsibilities the Committee unanimously recommends that the following measures be taken:—

(1) That a separate Enforcement Branch be organised to deal with offences committed not only by public servants but also by others engaged in production, supply and other services connected with war effort.

(2) That Special Units be organised to deal with particular types of offences likely to occur frequently in addition to Regional Units.

(3) That an Intelligence Wing be added to the Special Police Establishment for the collection of information in secret.

(4) That the States be advised to establish special organisations to deal with offences of the type mentioned in (1) above.

(5) That arrangements be made for coordinating the work of the Delhi Special Police Establishment with such special wings in the States.

(6) That the States be requested to supply all statistics that may be needed by the Special Police Establishment periodically so that a comprehensive review of the position in addition to these offences may be made available to the Government of India.

ANNEXURE II

K. Santhanam, M.P.

D.O. No. 1/6/62-CPC.

New Delhi-11, dated the 20th October 1962.

My dear Shastriji,

I am herewith enclosing a report containing the views of the Committee regarding the draft amendment to Article 311 of the Constitution.

2. I am also enclosing a short note containing the views of one of the Members who feels that a more radical approach to the constitutional protection to Government servants is necessary.

With kind regards.

Yours sincerely,

Sd: K. Santhanam.

Shri Lal Bahadur Shastri,
Home Minister,
Government of India,
New Delhi.

Ministry of Home Affairs

(Committee on Prevention of Corruption)

The Committee examined the draft amendment to Article 311 of the Constitution.

2. It is unanimously of the opinion that the present Article 311 needs to be amended.

3. It also approves of the substitution of the words "except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges" in the place of the present words "until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him".

4. The Committee has no objection to the omission of the words "or reduced in rank" in sub-clause (2) of Article 311 of the Constitution.

5. The Committee, however, feels that the proposed amendments are not adequate. It is of opinion that in order to ensure speedy action, Parliament should be vested with power to regulate all matters relating to inquiry against a member of a Civil Service including the jurisdiction of courts in relation to such inquiry.

6. Regarding clause (3) of the proviso to sub-clause (2), the Committee is of the opinion that after the words "in the interest of the security" the words "or integrity" should be added. If these suggestions are accepted, clauses (2) and (3) of Article 311 will read as follows:—

Clause (2):

"No such person as aforesaid shall be dismissed or removed except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges;

Provided that:

This clause shall not apply—

(a) Where a person is dismissed or removed on the ground of conduct which has led to his conviction on a criminal charge;

(b) Where an authority empowered to dismiss or remove a person is satisfied that for some reason to be recorded by that authority in writing it is not reasonably practicable to hold such inquiry;

(c) Where the President or the Governor, as the case may be, is satisfied that in the interest of the security or integrity of the State it is not expedient to hold such inquiry.

Clause (3):

If, in respect of any such person as aforesaid a question arises whether it is reasonably practicable to hold such an inquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismiss or remove such person shall be final;

Clause (4):

Notwithstanding anything contained in parts III, V and VI of the Constitution, Parliament may, by law, regulate all matters relating to such inquiry as is referred to in Clause (2) and action taken thereafter, including the jurisdiction of courts in respect of proceedings relating to such matters.

A NOTE BY ONE OF OUR MEMBERS REGARDING THE PROPOSED AMENDMENT OF ARTICLE 311 OF THE CONSTITUTION

One of our Members felt that the proposed amendment is just of a piece-meal nature and therefore fails to deal with the question of services under the present Law and Constitution in a comprehensive way and therefore it is necessary to suitably amend it to meet the requirements of the situation. The constitutional protection provided by Article 311 does not obtain in Britain as well as in U.S.A. Even under the British Rule, till 1919, there was no statutory provision of this nature. For the first time, the British Government introduced it by the 1919 Act and it was further elaborated by the 1935 Act, on the basis of which the present Article is incorporated in the Constitution. In the opinion of the Member, the constitutional right conferred by the Article should be taken away altogether; but at the same time, some other suitable machinery, quite independent of the executive, should be set up to give adequate protection to the services.

The time has come to enact a comprehensive code of service for civil servants, on the lines of the labour code and Administrative Tribunals, quite independent of the executive, should be entrusted

to deal with all serious breaches of rules of conduct. At present, with the ever growing number of cases of breaches, administration is burdened with their disposal and quite often, it is not competent to deal with them in an impartial manner. While amending the Constitution, as it is proposed, simultaneous steps should be taken to infuse confidence in the services that they would get a fair deal.

So far as the present Article is concerned, the Member suggests that it should be substituted by altogether a new Article on the following lines:

(1) A person who is a member of a Civil Service of the Union or an All India Service or a Civil Service of a State or holds a civil post under the Union or State may be dismissed or removed (or compulsorily retired) by the appointing authority or any other authority declared as the competent authority for this purpose, on the ground—

(a) of misbehaviour or incapacity or of having acted in contravention of the rules of conduct prescribed as applicable to such persons;

(b) of conduct that led to his conviction on a criminal charge;

(c) that his retention in service is not conducive to the interest or security of the State.

(2) Parliament may by law prescribe for the rules of conduct applicable to such persons and the procedure for the investigation and proof of all or any of the grounds mentioned in clause 1 of this article.

Provided that it shall be competent for the President to make rules in this behalf in the case of All India Services and services and posts in connection with the affairs of the Union and for the Governor of a State to make rules in this behalf in the case of services and posts in connection with the affairs of the State; until provision is made by or under an Act of Parliament and any rules so made shall have effect subject to the provisions of any such Act.

(3) No law or rules as is referred to in clause (2) of this article shall be deemed to be void on the ground that it is inconsistent with or takes away or abridges any of the rights conferred by Part III or Part XIV of this Constitution and shall not be called in question in any manner in any Court.

ANNEXURE III

K. Santhanam, M.P.
Chairman.

D.O. No. 1/7/63-CPC
Ministry of Home Affairs
(Committee on Prevention of Corruption)
New Delhi-11, dated the 9th May, 1963.

My dear Shastriji,

I have the honour to enclose herewith the revised draft of the Central Government Servants Conduct Rules and the report explaining the changes made by the Committee.

2. It may be seen from the report that the recommendations have been made after prolonged consideration. It will also be noticed that in respect of many of the rules only minor changes have been made which shows that the Committee have fully appreciated the fact that the rules have been generally evolved after mature thought and experience. At the same time the Committee felt that some changes were necessary to bring the rules uptodate.

With kind regards.

Yours sincerely,
Sd: K. Santhanam.

Shri Lal Bahadur Shastri,
Home Minister,
Government of India,
New Delhi.

REPORT ON THE GOVERNMENT SERVANTS' CONDUCT RULES

The Committee on Prevention of Corruption examined in detail at its meetings held on the 20th and 21st October, and 3rd, 4th and 5th December, 1962, the provisions of the Government Servants (Conduct) Rules applicable to members of All India Services, members of the Central Services and members of the Railway Services. The Committee examined only those rules which have a direct or indirect bearing on integrity in the public services. It did not apply its mind to rules 4-A, 4-B, 5, 6, 7 and 8. The Committee formulated certain provisional proposals regarding the amendments which appeared necessary or desirable. The Chairman of the Committee was authorised to circulate the provisional proposals to all Secretaries of the Government of India with a view to obtaining their views and comments and accordingly the provisional proposals of the Committee were forwarded to all Secretaries of Government on 13th December, 1962. Replies were received from all except the Ministries of Education, Law and the Department of Defence Production.

2. The Committee after carefully considering the views and comments of the different Ministries/Departments, finalised its recommendations at the meetings held on 20th, 21st and 22nd March, 1963. The revised version of the Conduct Rules incorporating the amendments recommended by the Committee is attached hereto.

3. The Committee recommends that there should be only one set of Conduct Rules applicable to all Government servants employed in connection with the affairs of the Union and to members of the All India Services. The Ministry of Railways had pointed out that it may be necessary to make some minor modifications to suit the conditions obtaining in the Railways and desired to have this freedom. The Committee considers that the Conduct Rules, especially those relating to integrity should apply without exception to all categories of Government servants employed in connection with the affairs of the Union. The Committee recommends that if any modifications are to be made, it should be done only with the concurrence of the Ministry of Home Affairs.

Rule 2(c)

4. The Committee has made minor changes in the definition of the term "members of the family" occurring in Rule 2(c) of the present Conduct Rules. The revised definition does not make any material change and is simpler and clearer.

Rule 3:

5. The Committee recommends the replacement of the present Rule 3 by the following:—

(1) Every Government servant shall at all times maintain absolute integrity and devotion to duty and shall do nothing which is unbecoming of a Government servant.

(2) (i) Every Government servant holding a supervisory post shall take all possible steps to ensure integrity and devotion to duty of all Government servants for the time being under his control and authority;

(ii) No Government servant shall in the performance of his official duties or in the exercise of powers conferred on him, act otherwise than in his best judgment except when he is acting under the direction of his official superior. He should obtain such direction in writing wherever practicable and where it is not practicable he should obtain written confirmation as soon thereafter as possible.

The Committee is of the opinion that it is not enough for Government servants holding supervisory posts to be content with their own personal integrity. They have got a duty to keep a watchful eye on the integrity of the staff working under them. The Committee also considers that it is essential for every Government servant to take full responsibility for his actions and orders except where he acts under the directions of his official superior. The revised rule emphasises these points.

Rule 3-A

6. The revised rule 3-A is self-explanatory, and lays down clearly the conduct expected of every Government servant in cases of conflict between public duty and private interest and brings out some of the points that were implied but left unsaid in the old rule.

Rule 9

7. For the existing rule 9, the following has been substituted:—

"No Government servant shall ask for or accept contributions to or otherwise associate himself with the raising of any funds or collections in pursuance of any object whatsoever provided that the Government or such authority as may be empowered by it in this behalf may give permission for such collection or association for a specific purpose."

The Committee would have very much liked to completely prohibit Government servants from participating in collection of subscriptions, contributions etc. but in the present circumstances such a

total prohibition may not be possible. The Committee recommends that permission may be granted sparingly and only for deserving purposes.

Rule 10

8. The Committee devoted considerable attention to question of receipt of gifts by Government servants. The revised rule is intended not only to make the position clearer and more precise but also to liberalise the existing rules so as to prevent too much interference in private life. The Committee considers that the definition of gifts should include free transport, lodging and other services or any other pecuniary advantage when provided by any person other than a near relative or personal friend having no official dealings with the Government servant. At the same time, it should not be necessary for Government servants who accept occasional lifts or meals or casual hospitality to obtain the permission of, or make a report to the Government on each occasion. A suitable exception has, therefore, been made.

The Committee has suitably modified the financial limits now prescribed regarding gifts made on certain special occasions in view of the changed conditions.

Rule 11

9. The revised rule 11 is self-explanatory and merely brings out more clearly the object of the existing rule.

Rule 12

10. The same is true of the proposed amendment of rule 12 which does not make any substantial change.

11. The Committee gave careful thought to a suggestion that there should be no restriction on a Government servant taking part in the registration, promotion etc. of a Co-operative Society. The Committee considers that if a Government servant is allowed to take part in the registration and promotion of a co-operative society set up for commercial purposes, it may provide scope for corruption or misuse of official influence. The Committee, therefore, decided to recommend that a Government servant should obtain previous sanction of the Government if he desires to take part in the registration, promotion or management of any bank or other company registered under the Indian Companies Act or any co-operative society for commercial purposes. The Government will thus have an opportunity to judge whether the Government servant should be permitted to take part in such activities.

12. The Committee also considered a suggestion that a Government servant may be permitted to undertake part-time work connected with teaching in educational, scientific or technical institutions. Sub-rule (1) of Rule 12 provides that the Government servant should obtain previous sanction of the Government if he desires to engage himself directly or indirectly in any trade or business or undertakes any employment. The proviso to the sub-rule makes an exception in favour of honorary work of a social or educational or charitable nature or occasional work of a literary, artistic or scientific character. The provision is salutary and the Committee considers that it should not be diluted further.

Rule 13

13. The proposed changes in rule 13 are intended to tighten up the provisions regarding speculation in stocks and shares and other investments and lending and borrowing by Government servants.

Rule 14

14. The revised rule 14 is self-explanatory and except for the note and the requirement of a report regarding legal proceedings initiated against a Government servant for recovery of any debt due by him, reproduces the existing rule.

Rule 15

15. The Committee attaches great importance to the changes recommended in the existing rule 15 relating to the acquisition and disposal of property by Government servants. On the one hand, these reports serve as a check against corruption and on the other, it may be irritating to honest Government servants to be subject to restrictions not imposed on other citizens. It is also necessary to ensure that the reports are such as to serve the purpose for which they are obtained. Further, no reports need be obtained from those Government servants who have no opportunity to enrich themselves by unlawful means.

16. The most important change made by the Committee in this rule is the replacement of the annual immovable property return by a complete periodical statement of assets and liabilities. In the circumstances now obtaining in the country, the immovable property return has ceased to have much significance. The Committee considers that in order to enable Government to ascertain whether any Government servant is in possession of assets disproportionate to his known sources of income or whether he is running into debt, it is necessary that the Government servant should furnish a complete statement of his assets and liabilities periodically.

17. The Committee considers that only the more important items of movable property should be reported specifically and that it would be sufficient if Government servants report the total value of other movable property, except articles of daily use like clothes, utensils, crockery, books etc. But it is essential that the value of movable property should be stated in the statement of assets and liabilities.

18. The Committee considered the argument that there was no need for the submission of periodical returns of assets and liabilities and that it would be sufficient if such a statement is given once either on entry or after promulgation of these rules and that thereafter it should be enough if the Government servant is required to report all transactions in immovable property and all transactions in movable property exceeding a specified value. The Committee decided to recommend that Government servants should be required to submit a periodical statement of assets and liabilities, as it would not be reasonable to require the Government servants to report all the innumerable small transactions taking place continually. But as these small transactions may cumulatively be sizable and have a big effect on his financial position, the purpose will be served only by obtaining a periodical balance-sheet. The Committee, however, considers that the reports need not be frequent and that it may perhaps be sufficient if they are submitted once in five years.

19. Another point that was considered by the Committee was whether jewellery should be included within the definition of movable property. The Committee recognises that inclusion of jewellery may be considered to be an unnecessary intrusion into the private affairs of a Government servant. But jewellery constitute important assets and if excluded from the definition of movable property, the balance sheet submitted by the Government servant may not set out the true picture.

20. The Committee is of the opinion that the Government should have the power to exempt from the operation of sub-rule (1) specified categories of Government servants. For instance, it may not be necessary to obtain such returns from Class IV Government servants or some categories of Class III Government servants who, by the nature of their duties, do not come into contact with the public. The Committee recommends that proposals to exempt whole classes from the operation of this rule should be carefully examined and that such exemptions should be granted only if there are good and sufficient reasons for doing so. The categories to be exempted is a matter essentially for each Ministry/Department to decide taking into account the nature of work dealt with in that Ministry/Department. The Committee has made an appropriate provision in sub-rule (5) of the Rule as finally recommended.

Rule 16.

21. The proposed rule 16 does not make any substantial change in the existing rule except to require a Government servant to submit a full report to the prescribed authority, in regard to the litigation started by him in his private capacity. Any kind of litigation in which a Government servant is engaged may have a bearing on his official duties and position and therefore his superiors should be kept informed even though they may not interfere.

Rule 18-A.

22. Rule 18-A was introduced in December, 1962 in the All India Services (Conduct) Rules and in January, 1963, in the Central Civil Services (Conduct) Rules. The Committee has redrafted the rule so as to bring out the important points more specifically.

23. As has been stated, these rules have been finalised after a careful consideration of the comments and suggestions of the Ministries/Departments on the original draft and the Committee recommends that these may be adopted as early as possible.

UNION GOVERNMENT SERVANTS' (CONDUCT) RULES

1. Short title and application:

(1) These rules may be called the Union Government Servants (Conduct) Rules.

(2) Except as otherwise provided by or under these rules, these rules shall apply to all persons appointed to services and posts in connection with the affairs of the Union.

2. Definitions:

In these rules, unless the context otherwise requires:—

(a) "the Government" means the Central Government.

Explanation.—A Government servant whose services are placed at the disposal of a company, corporation, organisation or a local authority by the Government shall, for the purposes of these rules, be deemed to be a Government servant serving under the Government, notwithstanding that his salary is drawn from sources other than from the Consolidated Fund of the Union;

(b) "Government servant" means any person appointed to any Service or post in connection with the affairs of the Union;

(c) "members of the family" in relation to a Government servant includes:

(i) the wife or husband of such Government servant, as the case may be, whether residing with the Government servant or not but does not include a wife or husband legally separated from the Government servant;

(ii) son or daughter or step-son or step-daughter of such Government servant for whose maintenance the Government servant is responsible; and

(iii) any other person related, whether by blood or marriage to the Government servant or to such Government servant's wife or husband, and wholly dependent on such Government servant.

3. General:

(1) Every Government servant shall at all times maintain absolute integrity, devotion to duty and shall do nothing which is unbecoming of a Government servant.

(2) (i) Every Government servant holding a supervisory post shall take all possible steps to ensure integrity and devotion to duty of all

Government servants for the time being under his control and authority;

(ii) No Government servant shall in the performance of his official duties or in the exercise of powers conferred on him, act otherwise than in his best judgment except when he is acting under the direction of his official superior. He should obtain such direction in writing wherever practicable and where it is not practicable he should obtain written confirmation as soon thereafter as possible.

3(A) Employment of near relatives of Government servants in private firms enjoying Government patronage:

(1) No Government servant shall use his position or influence directly or indirectly to secure employment for any member of his family with any private firm.

(2) Every Government servant shall, as soon as he becomes aware of the fact of acceptance by a member of his family of employment with any private firm, report to the prescribed authority the fact of such acceptance and the fact whether he has or has had any official dealings with that firm.

(3) (i) No Government servant shall in the discharge of his official duties deal with any matter or award any contract relating to a firm or any other person if any member of his family is employed in that firm or under that person or if he or any member of his family is interested in any such matter in any other manner.

(ii) In all such cases the Government servant shall refer the case to his official superior and the case shall thereafter be disposed of according to the instructions of the authority to whom the reference is made.

4. Taking part in politics and elections:

(1) No Government servant shall be a member of, or be otherwise associated with, any political party, or any organisation which takes part in politics nor shall he take part in, subscribe in aid of, or assist in any other manner, any political movement or activity.

(2) It shall be the duty of every Government servant to endeavour to prevent any member of the family from taking part in, subscribing in aid of or assisting in any other manner any movement or activity which is, or tends directly or indirectly to be, subversive of the Government as by law established and where a Government servant is unable to prevent a member of his family from taking part in, or

subscribing in aid of, or assisting in any other manner, any such movement or activity, he shall make a report to that effect to the Government.

(3) If any question arises whether any movement or activity falls within the scope of this rule, the decision of the Government thereon shall be final.

(4) No Government servant shall canvass or otherwise interfere or use his influence in connection with, or take part in, an election to any legislature or local authority;

Provided that:

(i) a Government servant qualified to vote at such election may exercise his right to vote, but where he does so, he shall give no indication of the manner in which he proposes to vote or has voted;

(ii) a Government servant shall not be deemed to have contravened the provisions of this rule by reason only that he assists in the conduct of an election in the due performance of a duty imposed on him by or under any law for the time being in force.

Explanation.—The display by a Government servant on his person, vehicle or residence of any electoral symbol shall amount to using his influence in connection with an election within the meaning of this sub-rule.

4(A) Demonstrations and Strikes:

No Government servant shall participate in any demonstration or resort to any form of strike in connection with any matter pertaining to his conditions of service.

4(B) Joining of Associations by Government servants:

No Government servant shall join or continue to be a member of any Service Association of Government servants—

(a) which has not, within a period of six months from its formation, obtained the recognition of the Government under the rules prescribed in that behalf

or

(b) recognition in respect of which has been refused or withdrawn by the Government under the said rules.

5. Connection with press or radio:

(1) No Government servant shall, except with the previous sanction of the Government, own wholly or in part, or conduct, or participate in the editing or managing of, any newspaper or other periodical publication.

(2) No Government servant shall, except with the previous sanction of the Government or any other authority empowered by it in this behalf, or in the *bona fide* discharge of his duties, participate in a radio broadcast or contribute any article or write any letter either anonymously or in his own name or in the name of any other person to any newspaper or periodical:

Provided that no such sanction shall be required if such broadcast or such contribution is of a purely literary, artistic or scientific character.

6. Criticism of Government:

No Government servant shall, in any radio broadcast or in any document published anonymously or in his own name or in the name of any other person or in any communication to the press or in any public utterance, make any statement of fact or opinion—

(i) which has the effect of an adverse criticism of any current or recent policy or action of the Central Government or a State Government:

Provided that in the case of any Government servant nothing contained in this clause shall apply to *bona fide* expression of views by him as an office-bearer of a trade union of such Government servants for the purpose of safeguarding the service conditions of such Government servants or for securing an improvement therein; or

(ii) which is capable of embarrassing the relations between the Central Government and the Government of any State; or

(iii) which is capable of embarrassing the relations between the Central Government and the Government of any foreign State:

Provided that nothing in this rule shall apply to any statements made or views expressed by a Government servant in his official capacity or in the due performance of the duties assigned to him.

7. Evidence before Committee or any other authority:

(1) Save as provided in sub-rule (3), no Government servant shall except with the previous sanction of the Government, give evidence in connection with any inquiry conducted by any person, committee or authority.

(2) Where any sanction has been accorded under sub-rule (1), no Government servant giving such evidence shall criticise the policy or any action of the Central Government or of a State Government.

(3) Nothing in this rule shall apply to—

(a) evidence given at an inquiry before an authority appointed by the Government, by Parliament or by a State Legislature; or

(b) evidence given in any judicial inquiry; or

(c) evidence given at any departmental inquiry ordered by authorities subordinate to the Government.

8. Unauthorized communication of information:

No Government servant shall, except in accordance with any general or special order of the Government or in the performance in good faith of the duties assigned to him, communicate, directly or indirectly, any official document or information to any Government servant or any other person to whom he is not authorised to communicate such document or information.

9. Subscriptions:

No Government servant shall ask for or accept contributions to or otherwise associate himself with the raising of any funds or collections in pursuance of any object whatsoever provided that the Government or such authority as may be empowered by it in this behalf may give permission for such collection or association for a specific purpose.

10. Gifts:

(1) Save as provided in these rules, no Government servant shall accept or permit his wife or any other member of his family or any other person on his behalf to accept any gift.

Explanation.—Gifts include free transport, boarding, lodging and other service or any other pecuniary advantage when provided by any person other than near relative or personal friend having no official dealings with the Government servant.

NOTE.—A casual meal, lift or other social hospitality shall not be deemed to be a gift.

(2) On occasions such as weddings, anniversaries, funerals and religious functions, when making of gifts is in conformity with the prevailing religious or social customs, gifts may be accepted from near relatives provided that a report shall be made to the Government if the value of the gift exceeds—

(i) Rs. 500/- in the case of a Government servant holding any class I or II post;

(ii) Rs. 250/- in the case of a Government servant holding any class III post; and

(iii) Rs. 100/- in the case of class IV employees.

(3) In all other cases of gifts the sanction of the Government shall be obtained for accepting them if the value thereof exceeds—

(i) Rs. 75/- in the case of Government servants holding any class I or class II posts; and

(ii) Rs. 25/- in the case of Government servants holding class III or IV posts.

11. Public demonstrations in honour of Government servants:

No Government servant shall, except with the previous sanction of the Government, receive any complimentary or valedictory address or accept any testimonial or attend any meeting or entertainment held in his honour, or in the honour of any other Government servant :

Provided that nothing in this rule shall apply to:

(i) A farewell entertainment of substantially private and informal character held in honour of a Government servant or any other Government servant on the occasion of his retirement or transfer or any person who has recently quitted service of any Government; or

(ii) the acceptance of simple and inexpensive entertainments arranged by public bodies or institutions.

NOTE: Exercise of pressure of any sort on any Government servant to induce him to subscribe towards any farewell entertainment even if it is of a substantially private or informal character and collection of subscriptions from Class III or IV employees under any circumstances for entertainment of any Government servant not belonging to their own class, is forbidden.

12. Private trade or employment:

(1) No Government servant shall, except with the previous sanction of the Government engage directly or indirectly in any trade or business or undertake any employment:

Provided that a Government servant may, without such sanction undertaken honorary work of a social or charitable nature or

occasional work of a literary, artistic or scientific character, subject to the condition that his official duties do not thereby suffer, but he shall not undertake, or shall discontinue such work if so directed by the Government.

Explanation : Canvassing by a Government servant in support of the business of Insurance agency, commission agency etc. owned or managed by his wife or any other member of his family or any other person shall be deemed to be a breach of this sub-rule.

(2) Every Government servant shall report to the Government if any member of his family is engaged in a trade or business or owns or manages an insurance agency or commission agency.

(3) No Government servant shall, without the previous sanction of the Government except in the discharge of his official duties, take part in the registration, promotion or management of any bank or other company registered under the Indian Companies Act, 1956, or any other law for the time being in force or any co-operative society for commercial purposes :

Provided that a Government servant may take part in the registration, promotion or management of a co-operative society substantially for the benefit of Government servants registered under the Co-operative Societies Act, 1912 (II of 1912) or any other law for the time being in force, or of a literary, scientific or charitable society registered under the Societies Registration Act, 1860 (XXI of 1860), or any corresponding law in force.

(4) No Government servant may, accept any fee, for any work done for any public body or for any private person without the sanction of the competent authority.

13. **Investment, lending and borrowing:**

(1) No Government servant shall speculate in any stock and shares or other investments.

NOTE: Frequent purchase and sale of shares, securities etc. shall be deemed to be speculation within the meaning of this rule.

(2) No Government servant shall make, or permit his wife or any member of his family or any other person acting on his behalf to make, any investment likely to embarrass or influence him in the discharge of his official duties.

(3) If any question arises whether any transaction is of the nature referred to in sub-rule (1) or (2), the decision of the Government thereon shall be final.

(4) (i) No Government servant shall, save in the ordinary course of business with a bank or a firm of standing, himself or through any member of his family or any other person acting on his behalf lend or borrow money, as principal or agent whereby any interest or return in money or kind is charged or paid, to or from any person within the local limits of his authority or with whom he is likely to have official dealings :

Provided that—

(a) a Government servant may give or accept a purely temporary loan free of interest from a relative or a personal friend or operate a credit account with *bona fide* tradesman or to make an advance to his private employee;

(b) with the previous sanction of the Government enter into any transaction of lending or borrowing money which but for such sanction will be a breach of this sub-rule.

(ii) When a Government servant is appointed or transferred to a post of such a nature as to involve him in the breach of any of the provisions of sub-rule (2) or (4) he shall forthwith report the circumstances to such authority as may be prescribed by Government and shall thereafter act in accordance with such order as may be passed by such authority.

14. **Insolvency and habitual indebtedness:**

A Government servant shall so manage his private affairs so as to avoid habitual indebtedness or insolvency. A Government servant who becomes the subject of legal proceedings for recovery of any debt due from him or insolvency shall forthwith report the full facts to the Government.

NOTE : The burden of proving that insolvency or indebtedness is the result of circumstances which, with the exercise of ordinary diligence, the Government servant could not have foreseen, or over which he had no control, and has not proceeded from extravagant or dissipated habits, will be upon the Government servant.

15. **Movable, immovable and valuable property:**

(1) Every Government servant shall on first appointment to the service and thereafter at such intervals as may be prescribed submit a return of his assets and liabilities, in such form as may be prescribed. The return shall contain full particulars regarding—

(a) immovable property owned, acquired or inherited by him or held by him on lease or mortgage either in his own name or in the name of any member of his family or in the name of any other person;

(b) shares, debentures and cash similarly owned, acquired, inherited or held by him;

(c) other movable property;

(d) debts and other liabilities due by him directly or indirectly.

Note I.—Sub-rule (1) of Rule 15 shall not ordinarily apply to Class IV servants but the Government may direct that it may apply to any such Government servant or class of such Government servants.

Note II.—In all returns the values of items of movable property less than Rs. 1,000/- may be added and shown as a lump sum. The value of articles of daily use such as clothes, utensils, crockery, books need not be included.

Note III.—The total value of jewellery may be shown as a lump sum.

Note IV.—Government servants who are in service on the date that this Rule comes into force should submit a return under this sub-rule by a date to be prescribed immediately following the coming into force of this Rule.

(2) No Government servant shall, except with the previous knowledge of the prescribed authority acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift or otherwise either in his own name or in the name of any member of his family.

Provided that the previous sanction of the prescribed authority shall be obtained if any such transaction is in respect of property belonging to a person having official dealings with the Government servant.

(3) Every Government servant shall report to the prescribed authority all transactions concerning movable property if the value of such transaction exceeds Rs. 1,000/- in the case of Government servant holding any class I or class II post and Rs. 500/- in the case of other Government servants;

(4) The competent authority may at any time by general or special order require a Government servant to submit, within a period specified in the order, furnish full particulars of such movable or immovable property held or acquired by him or on his behalf or by any member of his family as may be specified in the order. Such statement shall, if so required include details of the means by which, or the source from which, such property was acquired.

(5) The Government may exempt any category of Government servants belonging to classes II, III and IV from any of the provisions of this rule except sub-clause (4).

Explanation: For the purposes of this rule, the expression 'movable property' includes *inter alia* the following property, namely:—

(a) jewellery, insurance policies the annual premia of which exceeds 1/6th of the total annual emoluments received from Government, shares, securities and debentures;

(b) loans advanced by such Government servant, whether secured or not.

(c) motor cars, motor cycles, horses or any other means of conveyance; and

(d) refrigerators, radios and radiograms.

16. **Vindication of acts and character of Government servants:**

No Government servant shall, except with the previous sanction of the Government, have recourse to any court or to the press for the vindication of any official act which has been the subject matter of adverse criticism or an attack of defamatory character.

Explanation : Nothing in this rule shall be deemed to prohibit a Government servant from vindicating his private character or any act done by him in his private capacity provided that he shall submit a report to the prescribed authority regarding such action.

17. **Canvassing of non-official or other outside influence:**

No Government servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government.

18. **Bigamous marriages:**

(1) No Government servant who has a wife living shall contract another marriage without first obtaining the permission of the Government, notwithstanding that such subsequent marriage is permissible under the personal law for the time being applicable to him.

(2) No female Government servant shall marry any person who has a wife living without first obtaining the permission of the Government.

18(A). **Drinking:**

A Government servant shall—

(a) *strictly abide by any law relating to intoxicating drinks in force in any area in which he may happen to be for* the time being;

(b) take due care that performance of his duties are not prejudiced in any way by influence of such drinks or drugs;

(c) not appear in a public place in a state of intoxication;

(d) not habitually use such drinks or drugs to excess.

19. **Interpretation:**

If any question arises relating to the interpretation of these rules, it shall be referred to the Government whose decision thereon shall be final.

20. **Delegation of powers:**

The Government may, by general or special order, direct that any power exercisable by it or any head of Department under these rules (except the powers under rule 19 and this rule), shall subject to such conditions, any, as may be specified in the order, be exercisable also by such officer or authority as may be specified in the order.

21. **Repeal and saving:**

Any rules corresponding to these rules in force immediately before the commencement of these rules and applicable to the Government servants to whom these rules apply are hereby repealed :

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules.

ANNEXURE IV

K. Santhanam, M.P.
Chairman.

D.O. No. 1/15/63-CPC
Government of India,
Ministry of Home Affairs
(Committee on Prevention of Corruption)
New Delhi, August 23, 1963.

My dear Shastriji,

The Committee had for some time been considering the amendments to be made in the procedure relating to disciplinary proceedings. The Committee had formulated certain provisional views at its meeting held on 6th and 7th December, 1962. These provisional views were circulated to all the Secretaries of the Government of India to ascertain their views. On receipt of the comments and views of the Ministries and Departments the Committee caused draft rules to be prepared which they have considered and finalised at the meeting held on 16th and 17th of August, 1963.

2. The Committee considered that there should be only one set of discipline and appeal rules in respect of Government servants serving in connection with the affairs of the Union or appointed by the Union Government. Therefore, in the definition of the term 'Government servant' members of the All India Services have also been included. It has accordingly been provided that the President may (a) impose any of the prescribed penalties on any Government servant (Rule 8); and (b) institute disciplinary proceedings against any Government servant or direct a disciplinary authority to institute such proceedings [Rule 9(1)]. It has also been provided that the Central Government may institute proceedings against a member of an All India Service if the circumstances of the case are such that the Central Government is satisfied that it would be in public interest for the Central Government to institute such proceedings provided that before doing so the Central Government shall consult the State Government.

3. The power to institute departmental proceedings has been given to the President, specified disciplinary authorities and such other authorities as may be empowered by the President by general or special order. This last provision has been made in view of the recommendation of the Committee that the Directorate of the Vigil-

ance of the Central Vigilance Commission should have the power to determine the nature of disciplinary proceedings to be initiated and to initiate, conduct and complete such proceedings (*vide* para 24 of the scheme regarding the Central Vigilance Commission).

4. The Committee noticed that while the discipline and appeal rules now in force provide penalties that should be imposed on a Government servant while in service, they are silent about the penalties that could be imposed on a Government servant after his retirement. Such penalties are now imposed under Civil Service Regulations 351-A and Rule 6 of the All India Services (Death-cum-Retirement Benefits) Rules, 1958. The Committee considered that the penalties that should be imposed on a Government servant after retirement and the procedure for imposing such penalties should also be made part of the discipline and appeal rules. This has been done.

5. The more important aspects of the revised procedure are:—

(i) The requirement of the accused officer submitting a written statement of defence after the framing of charges has been dispensed with.

(ii) The procedure to be followed by the inquiring authority appointed to hold inquiry in a disciplinary case has been approximated to the procedure prescribed in the Public Servants (Inquiries) Act, 1850.

(iii) The rules relating to suspension, regulation of the period of absence from duty after reinstatement of an officer who had been dismissed, removed or suspended provide for removal of certain difficulties that have arisen out of some recent pronouncements of the courts.

(iv) The requirement of submitting an appeal or a memorial through the authority which passed the order which is the subject matter of the appeal or memorial has been dispensed with to minimise delay.

In other respects, the rules are substantially in accordance with the existing rules on the subject.

6. The Committee took note of the fact that the discipline and appeal rules in regard to members of the All India Service have been framed under sub-section (1) of Section 3 of the All India Services Act, 1951, after consulting the State Governments. If the Government consider that it would not be appropriate to lump together members of the All India Services and other Union Services, the Government may consider amending the All India Services (Discipline and Appeal) Rules, 1955, to bring it in accordance with

the rules now approved by the Committee. Perhaps, it should not be difficult to notify the revised rules under the All India Services Act after such consultation with the State Governments as may be necessary. A copy of the Rules as revised is enclosed herewith.

With kind regards.

Yours sincerely,

(Sd.) K. Santhanam.

Shri Lal Bahadur Shastri,
Home Minister,
Government of India,
New Delhi.

UNION GOVERNMENT SERVANTS (DISCIPLINE AND APPEAL) RULES, 196

CHAPTER—1

GENERAL

1. **Short title and commencement.**—(a) These rules may be called the Union Government Servants (Discipline and Appeal) Rules, 196

(b) They shall come into force at once.

2. **Interpretation.**—In these rules, unless the context otherwise requires—

(a) "Appointing Authority" in relation to a Government servant means—

(i) the authority empowered to make appointments to the Service of which the Government servant is for the time being a member or to the grade of the Service in which the Government servant is for the time being included, or

(ii) the authority empowered to make appointments to the post which the Government servant for the time being holds, or

(iii) the authority which appointed the Government servant to such Service, grade or post, as the case may be, or

(iv) where the Government servant having been a permanent member of any other Service or having substantively held any other permanent post, has been in continuous employment of the Government, the authority which appointed him to that Service or to any grade in that Service or to that post,

whichever authority is the highest authority;

(b) "Commission" means the Union Public Service Commission;

(c) "Department of the Government of India" means any establishment or organisation notified to be a Department of the Government of India;

(d) "Disciplinary Authority" means the authority competent under these rules to impose on a Government servant any of the penalties specified in Rule 7;

(e) "Government servant" means a person who—

(i) is a member of a Civil Service of the Union or holds a civil post under the Union and includes any such person on foreign Service or whose services are temporarily placed at the disposal of a State Government, or a local or other authority;

(ii) is a member of a Service or holds a civil post under a State Government and whose services are temporarily placed at the disposal of the Central Government;

(iii) is in the service of a local or other authority and whose services are temporarily placed at the disposal of the Central Government;

(iv) is a member of an All India Service;

(v) is a member of a Service or holds a post under the administrative control of the Railway Board and includes a person who holds a post in the Railway Board, other than a person lent from a service or post which is not under the administrative control of the Railway Board;

(vi) is a person paid from Defence Service Estimates and not subject to the Army Act, 1950, the Indian Navy (Discipline) Act, 1934, and the Air Force Act, 1950, and who is in the whole time employment of the Government of India in or under the Ministry of Defence;

(vii) is a person as is specified in clauses (i) to (vi) above and against whom proceedings are instituted for imposing any of the penalties specified in clauses (x) and (xi) of Rule 7;

(f) "Head of the department", for the purpose of exercising the powers as appointing, disciplinary, appellate or reviewing authority, means the authority declared to be the head of the department under the Fundamental Rules and Supplementary Rules;

(g) "Head of the office", for the purpose of exercising the powers as appointing, disciplinary, appellate or reviewing authority, means the authority declared to be the head of the office under the General Financial Rules;

(h) "Schedule" means the schedule to these Rules;

(i) "Secretary" means a Secretary to the Government of India in any Ministry or Department and includes—

(i) a Special Secretary or an Additional Secretary;

(ii) a Joint Secretary placed in independent charge of a Ministry or Department;

(iii) in relation to the Cabinet Secretariat, Secretary to the Cabinet;

(iv) in relation to the President's Secretariat, Secretary to the President or, as the case may be, Military Secretary to the President;

(v) in relation to the Prime Minister's Secretariat, Principal Private Secretary to the Prime Minister; and

(vi) in relation to the Planning Commission, Secretary to the Planning Commission;

(j) "Service" means a civil service of the Union.

3. **Application.**—These Rules apply to all Government servants except—

(a) persons in casual employment;

(b) persons subject to discharge on less than one month's notice;

(c) person for whom in respect of matters covered by these rules special provision is made by or under any law for the time being in force or by or under agreement entered into by or with the previous approval of the President before or after the commencement of these rules, in regard to matters covered by such special provisions;

(d) persons whom the President may by general or special order exclude from the operation of these rules.

CHAPTER—II

SUSPENSION

Suspension

4. (1) The appointing authority or any authority to which it is subordinate or the disciplinary authority or the Government in connection with whose affairs a member of an All India Service is serving or any other authority empowered by the President by general or special order in that behalf may place a Government servant under suspension—

(a) where a disciplinary proceeding against him is contemplated or is pending, or

(b) where a case against him in respect of any criminal offence is under investigation, inquiry or trial:

Provided that, except in case of an order of suspension made by the Comptroller and Auditor General in regard to a member of the Indian Audit and Accounts Service, where the order of suspension is made by an authority lower than the Appointing Authority, such authority shall forthwith report to the Appointing Authority the circumstances in which the order was made.

(2) A Government servant shall be deemed to have been placed under suspension by an order of the Appointing Authority

(a) with effect from the date of detention, if he is detained in custody, whether on a criminal charge or otherwise, for a period exceeding fortyeight hours;

(b) with effect from the date of conviction if in the event of conviction for a criminal offence he is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

(3) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant—

(i) is set aside in appeal or review under these rules —

(a) on the grounds that the prescribed procedure has not been followed or that a reasonable opportunity to defend himself has not been afforded to the Government servant, or

(b) on other grounds and the case is remitted for further inquiry or action or with any other direction.

(ii) is set aside or declared or rendered void in consequence of or by a decision of a court of law, whether or not the disciplinary authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegation on which the penalty of dismissal, removal or compulsory retirement was originally imposed;

the Government servant shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal, removal or compulsory retirement.

(4) (i) An order of suspension made or deemed to have been made under this rule shall remain in force until further orders.

(ii) Where a Government servant is suspended or is deemed to have been suspended in respect of one proceeding and any other proceeding is instituted during the pendency of the former, the competent authority may, for reasons to be recorded in writing, direct that the Government servant shall continue to be under suspension till the termination of all or any of such proceedings.

(iii) An order of suspension made or deemed to have been made under this rule may at any time be revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.

(5) Where a Government servant is or is deemed to have been placed under suspension under the provisions of this rule, attains or has attained the age of 55 years, the appointing authority may without prejudice to the continuance of the proceedings, if any, for the purpose of imposing any of the penalties specified in (x) and (xi) of Rule 7, require him to retire on three months notice.

Subsistence allowance during suspension

5. (1) A Government servant who is or is deemed to have been placed under suspension under Rule 4 shall, during the period of such suspension, be entitled to receive payment as a subsistence allowance an amount equal to the leave salary which the Government servant would have drawn under the leave rules applicable to him if he had been on leave on half pay or on half average pay:

Provided that where the period of suspension exceeds twelve months, the authority which made or is deemed to have made the order of suspension shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of the first twelve months as follows:—

(a) (i) the amount of subsistence allowance may be increased by a suitable amount, not exceeding 50 per cent of subsistence allowance admissible during the period of the first twelve months, if, in the opinion of the said authority, the period of suspension has been prolonged for reasons to be recorded in writing, not directly attributable to the Government servant;

(ii) the amount of subsistence allowance may be reduced by a suitable amount, not exceeding 50 per cent of the subsistence allowance admissible during the period of the first twelve months, if, in the opinion of the said authority, the period of suspension has been prolonged due to reasons, to be recorded in writing, directly attributable to the Government servant;

(iii) the rate of dearness allowance will be based on the increased or as the case may be, the decreased amount of subsistence allowance admissible under sub-clauses (i) and (ii) above.

(b) any other compensatory allowances admissible from time to time on the basis of pay of which the Government servant was in receipt on the date of suspension:

Provided that the Government servant shall not be entitled to the compensatory allowances unless the said authority is satisfied that the Government servant continues to meet the expenditure for which they are granted and all other conditions under which such allowances are admissible are satisfied.

(2) No payment under sub-rule (1) shall be made unless the Government servant furnishes a certificate, and the authority which made or is deemed to have made, the order of suspension is satisfied, that the Government servant is not engaged in any other employment, business, profession or vocation.

Pay, allowances and treatment of service

6. (1) Where an order of dismissal or removal or compulsory retirement made in respect of a Government servant is set aside in appeal or review under these rules or is set aside or declared or rendered void in consequence of or by a decision of a court of law, or an order of suspension made or deemed to have been made under Rule 4 in respect of him ceases to be in force, for whatever reason, the authority competent to order the reinstatement of the Government servant shall, when ordering his reinstatement consider and make specific order—(a) regarding the pay and allowances to be paid to the Government servant for the period of his absence from duty, and (b) whether or not the said period shall be treated as a period spent on duty.

(2) (a) Where the authority mentioned in sub-rule (1) is of opinion that the Government servant has been fully exonerated or, in the case of suspension, that it was wholly unjustified, the Government servant shall be given the full pay and allowances to which he would have been entitled, had he not been dismissed, removed, compulsorily retired or suspended as the case may be, and the period of absence from duty shall be treated as a period spent on duty for all purposes:

Provided that where such authority is of opinion that the final termination of the proceedings instituted against the Government servant has been delayed, or in case of suspension the period of suspension has been prolonged, due to reasons directly attributable to the Government servant, it may for reasons to be recorded in writing direct that the Government servant shall be paid only such proportion of such pay and allowances but not less than the subsistence and other allowances admissible under Rule 5 as it may prescribe for the period of such delay.

(b) In a case falling under the proviso to sub-clause (a) of this sub-rule the period of absence from duty shall not be treated as a period spent on duty unless such competent authority specifically directs that it shall be so treated for any specified period.

(3) (a) In other cases the Government servant shall be given such proportion of such pay and allowances as such competent authority may prescribe.

(b) In a case falling under clause (a) of this sub-rule, the period of absence from duty shall not be treated as a period spent on duty, unless such competent authority specifically directs that it shall be so treated for any specific purpose:

Provided that if the Government servant so desires such authority may direct that the period of absence from duty shall be converted into leave of any kind due and admissible to the Government servant.

(4) The payment of allowances under sub-rules (2) and (3) shall be subject to all other conditions under which such allowances are admissible.

(5) The authority that makes an order under the provisions of this rule may, if it is satisfied that the Government servant had engaged himself for remuneration, in any other employment, business, profession or vocation during the period of his absence from duty, deny to him the pay and allowances admissible to him under the provisions of this rule for the period of such employment.

CHAPTER—III

PENALTIES AND DISCIPLINARY AUTHORITIES

Penalties

7. The following penalties may for good and sufficient reasons and as hereinafter provided, be imposed on a Government servant:

(a) Minor

(i) censure;

(ii) withholding of promotion;

(iii) recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach of orders;

(iv) withholding of increments;

(b) Major

(v) reduction to a lower stage in the time-scale for a specified period with further directions whether or not the Govern-

ment servant will earn increments during the period of such reduction and whether on the expiry of such period such reduction will or will not have the effect of postponing future increments;

(vi) reduction to a lower time-scale, grade, post or service, for an unspecified period, which shall ordinarily be a bar to promotion to the time-scale, grade, post or service from which a Government servant was reduced or for a specified period, with or without further directions regarding conditions of restoration to the grade or post or service from which a Government servant was reduced and his seniority and pay on such restoration to that grade, post or service;

(vii) compulsory retirement;

(viii) removal from service which shall not be a disqualification for future employment;

(ix) dismissal from service which shall ordinarily be a disqualification for future employment;

After retirement:

(x) recovery from a pension of the whole or part of any pecuniary loss caused by negligence to the Central or State Government;

(xi) withholding or withdrawal of a pension or any part of it, whether permanently or for a specified period for grave misconduct.

Explanation:

(1) The penalties specified in clauses (x) and (xi) may be imposed only if the Government servant is found guilty of such negligence or grave misconduct, in departmental or judicial proceeding in respect of a cause of action which arose or an event which took place while the Government servant was in service, including service rendered under re-employment.

(2) The following shall not amount to a penalty within the meaning of this rule;

(i) withholding of increments of a Government servant for failure to pass a departmental examination in accordance with the rules or orders governing the Service or post or the terms of his appointment;

(ii) stoppage of a Government servant at the efficiency bar in the time-scale on the ground of his unfitness to cross the bar;

(iii) non-promotion whether in a substantive or officiating capacity of a Government servant, after consideration of his case, to a Service, grade or post for promotion to which he is eligible;

(iv) reversion to a lower Service, grade or post of a Government servant officiating in a higher Service, grade or post on the ground that he is considered to be unsuitable for such higher Service grade or post or on administrative grounds unconnected with his conduct;

(v) reversion to his permanent Service, grade or post of a Government servant appointed on probation to another Service, grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the rules and orders governing probation;

(vi) replacement of the services of a Government servant whose services have been borrowed from a State Government or an authority under the control of a State Government at the disposal of the authority which had lent his services;

(vii) compulsory retirement of a Government servant in accordance with the provisions relating to his superannuation or retirement;

(viii) termination of the services—

(a) of a Government servant appointed on probation, during or at the end of the period of probation, in accordance with the terms of his appointment or the rules and orders governing probation; or

(b) of a temporary Government servant in accordance with rule 5 of the Central Civil Services (Temporary Service) Rules, 1949; or

(c) of a Government servant, employed under an agreement, in accordance with the terms of such agreement.

(ix) non-sanction of the full pension on the ground that the service of the Government servant has not been wholly satisfactory;

(x) retirement of a Government servant under suspension in accordance with the provisions of sub-rule (5) of Rule 4.

Disciplinary Authorities

8. (1) The President may impose any of the penalties specified in Rule 7 on any Government servant.

(2) Without prejudice to the provisions of sub-rule (1), but subject to the provisions of sub-rule (4), any of the penalties specified in Rule 7 may be imposed on—

(a) a member of a Central Civil Service other than the General Central Service, by the Appointing Authority or the authority specified in the Schedule in this behalf or by any other authority empowered in this behalf by a general or special order of the President;

(b) a person appointed to a Central Civil post, included in the General Central Service, by the authority specified in this behalf by a general or special order of the President or, where no such order has been made, by the Appointing Authority or the authority specified in the Schedule in this behalf.

(3) Subject to the provisions of sub-rule (4), the power to impose any of the penalties specified in Rule 7 may also be exercised, in the case of a member of a Central Civil Service, Class III (other than the Central Secretariat Clerical Service), or a Central Civil Service, Class IV,—

(a) if he is serving in a Ministry or Department of the Government of India by the Secretary to the Government of India in that Ministry or Department;

(b) if he is serving in any other office, by the head of that office, except where the head of that office, is lower in rank than the authority competent to impose the penalty under sub-rule (2).

NOTE:—In this rule the expression "Head of the office" means the authority declared to be the head of the office under the General Financial Rules.

(4) Notwithstanding anything contained in this rule,—

(a) except where the penalty specified in clauses (v) and (vi) of Rule 7 is imposed by the Comptroller and Auditor General on a member of the Indian Audit and Accounts Service, no penalty specified in clauses (v) to (xi) of that rule shall be imposed by any authority lower than the Appointing Authority;

(b) Where a Government servant who is a member of a Service other than the General Central Service or is substantively appointed to any civil post in the General Central Service, is temporarily appointed to any other Service, or post, and the authority which would have been competent under

sub-rule (2) to impose upon him any of the penalties specified in clauses (v) to (xi) of Rule 7, had he not been so appointed to such other Service or post, is not subordinate to the authority competent to impose any of the said penalties after such appointment, the latter authority shall not impose any such penalty except after consultation with the former authority.

(5) Without prejudice to the provisions of sub-rule (1), the State Government under whom a member of an All India Service was serving at the time of the occurrence of the act or omission or conduct which renders him liable to disciplinary action shall be competent to impose on him any of the penalties specified in clauses (i) to (vi) of Rule 7.

Authority to Institute Proceedings

9. (1) The President or any other authority empowered by him by general or special order may—

(a) institute disciplinary proceedings against any Government servant;

(b) direct a disciplinary authority to institute disciplinary proceedings against any Government servant on whom that disciplinary authority is competent to impose under these rules any of the penalties.

(2) Subject to the provision of sub-rule (5) of this rule any disciplinary authority competent to impose under these rules any of the penalties specified in clauses (i) to (xi) of Rule 7 may institute disciplinary proceedings against a Government servant also under Rule 10 notwithstanding that such disciplinary authority is not competent, under these rules, to impose any of the penalties specified in clauses (v) to (xi) of Rule 7.

(3) Subject to the provisions of sub-rule (1), disciplinary proceedings against a member of an All India Service in respect of an act or omission or conduct which renders him liable for punishment may be instituted by—

(a) the Central Government—

(i) if such act or omission or conduct occurred before his appointment to the Service or while he was serving in connection with the affairs of the Union or in accordance with the orders of the Central Government serving under a foreign Government or outside India (whether on duty or on leave) or in connection with the affairs of a Company, corporation, organisation or local authority;

(ii) if the circumstances of the case are such that the Central Government is satisfied that it would be in public interest for the Central Government to institute such proceedings, provided that before doing so the Central Government shall consult the State Government;

(b) the State Government on whose Cadre he is borne if such act or omission or conduct occurred while serving in connection with the affairs of that State or while serving, in accordance with the orders of that Government, in connection with the affairs of a company, corporation, organisation or local authority;

(c) the State Government under whom he was serving, notwithstanding that he is not borne on the cadre of that State, if the act or omission or conduct while serving in connection with the affairs of that Government or while serving, in accordance with the orders of that Government, in connection with the affairs of a company, organisation or local authority.

Explanation:—For the purpose of clauses (b) and (c) of this sub-rule and sub-rule (5) of Rule 8, the expression 'State Government means the Government in connection with whose affairs he is serving or on whose cadre he is borne and in relation to a joint cadre means the Government of all the States for which the joint cadre is instituted and includes the Government of a State nominated by the Governments of all such States to act on their behalf, as the case may be.

(4) Proceedings instituted under the foregoing provisions of this rule shall be continued and concluded in accordance with the provisions of these rules, notwithstanding that the Government servant has retired from service on attaining the age of compulsory retirement or on the expiry of the period of re-employment, provided that on conclusion thereof, no penalty other than those specified in clauses (x) and (xi) of Rule 7 shall be imposed on the Government servant who has so retired.

(5) Except as provided in sub-rule (4) of this rule, no proceeding for imposition of any of the penalties in clauses (x) and (xi) of Rule 7 shall be instituted—

(i) save with the sanction of the President or with the sanction of any other authority empowered in this behalf by the President by general or special order;

(ii) in respect of any cause of action which arose or event that took place more than four years before such institution.

CHAPTER IV

Procedure for Imposing Penalties

Procedure for imposing major penalties

10. (1) No penalty specified in clauses (v) to (xi) of Rule 7 shall be imposed except after an inquiry held in accordance with the procedure prescribed in this Chapter or held in accordance with the provisions of the Public Servants (Inquiries) Act, 1850.

(2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government servant it may itself inquire into, or appoint, under this rule or the provisions of the Public Servants (Inquiries) Act, 1850, an authority to inquire into, the truth thereof.

(3) The disciplinary authority shall draw up or cause to be drawn up—

(i) the substance of the imputations into definite and distinct articles of charge;

(ii) a statement of allegations in support of each charge, which shall contain—

(a) a statement of all relevant facts including any admission or confession of the defendant;

(b) a list of documents by which and a list of witnesses by whom the charge is to be sustained.

(4) The disciplinary authority shall deliver or cause to be delivered to the defendant a copy of the articles of charge and the statement of allegations.

(5) The disciplinary authority shall where it is not itself the inquiring authority forward to the inquiring authority—

(i) a copy of the articles of charge and the statement of allegations;

(ii) the documents mentioned in the list specified in sub-clause (3)(ii)(b);

(iii) the statements of witnesses, if any, mentioned in the list specified in sub-clause (3)(ii)(b), with as many copies as there are defendants;

(iv) acknowledgement of the defendant showing the receipt by him of the articles of charge and the statement of allegations;

(v) an order appointing a presenting officer

NOTE:—The disciplinary authority may appoint a Government servant or a legal practitioner to be the presenting officer to conduct the case on its behalf.

(6) The defendant shall appear in person before the inquiring authority on the tenth working day after the date of receipt by him of the articles of charge and statement of allegations or on such other later date as may be specified by the inquiring authority.

NOTE:—The defendant may take the assistance of any other Government servant to conduct the case on his behalf, but may not engage a legal practitioner for the purpose unless the presenting officer appointed by the disciplinary authority is a legal practitioner or the disciplinary authority, having regard to the circumstances of the case, so permits.

(7) When the defendant appears before the inquiring authority the presenting officer shall read out and exhibit the articles of charge and the statement of allegations.

(8) The inquiring authority shall on the articles of charge and statement of allegations being exhibited, require the defendant to plead 'guilty' or 'not guilty' to each of the articles of charge which pleas shall forthwith be recorded and signed by the inquiring authority and the defendant.

(9) The inquiring authority shall return a finding of guilt if the defendant pleads guilty to the articles of charge.

(10) The inquiring authority shall, if the defendant fails to appear or refuses to plead, or pleads 'not guilty', require the Presenting Officer to adduce evidence in proof of the charges, and may adjourn the case to another date not exceeding thirty days, after recording an order that defendant may, if he so desires:

(i) inspect within 5 days of the order the documents mentioned in the list attached to the statement of allegations;

(ii) give a notice within 10 days of the said order for discovery and production of any additional documents which are in the possession of Government and not mentioned in the said list;

NOTE:—The defendant shall indicate the relevancy of the additional documents required by him to be discovered and produced.

(iii) submit a list of witnesses to be examined on behalf of the defendant.

NOTE:—If the defendant applies orally or in writing for the supply of copies of statements of witnesses mentioned in the list attached

to the statement of allegations, the inquiring authority shall furnish him with such copies as early as possible and in any case, three days before the examination of the witnesses.

(11) The inquiring authority shall on receipt of the notice mentioned in clause (10)(ii) forward the same or copies thereof to the authorities in whose possession the documents are held with a requisition for compliance by a specified date, provided that the inquiring authority may for reasons to be recorded in writing refuse to send for such of the documents as in its opinion are not strictly relevant to the case.

(12) Each of such authorities shall on receipt of the requisition mentioned in clause (11) produce the documents provided that if it is satisfied that it would be against public interest or security of State to produce all or any of such documents it shall inform the inquiring authority accordingly and the inquiring authority shall, on being so informed, communicate the objection to the defendant and withdraw its requisition.

(13) The inquiring authority shall on the date fixed for hearing proceed to bring on record the documentary and oral evidence in proof of the charges. The witnesses shall be examined by or on behalf of the Presenting Officer.

(14) The inquiring authority may in its discretion permit the Presenting Officer to exhibit evidence not included in the list furnished to the defendant, and in such case the defendant shall be entitled to have, if he so demands, an adjournment of the proceeding for not more than three clear days, before the exhibition of such new evidence, exclusive of the day of adjournment and of the day to which the proceedings are adjourned.

(15) When the Presenting Officer closes his case, the defendant shall be required to state his defence, orally or in writing, as he may prefer. If made orally, it shall be recorded and the defendant shall be required to sign the record. If made in writing, it shall be placed on record and a copy shall be given to the Presenting Officer.

(16) The evidence on behalf of the defendant shall then be exhibited. The defendant may give evidence in his behalf if he so prefers.

(17) The inquiring authority may after the defendant closes his case, and shall, if the defendant has not examined himself, generally question the defendant on the circumstances appearing against him in the evidence.

(18) Witnesses examined whether by the Presenting Officer or the defendant shall be liable for cross-examination by the defendant

or the Presenting Officer as the case may be; and for re-examination on any points on which they have been cross-examined, but on any new matter, without leave of the inquiring authority.

(19) Notwithstanding anything contained in the foregoing provisions the inquiring authority may put any questions to any witness, recall and re-examine any witness, call for additional evidence, at any stage before submitting its report provided that—

(i) such questions are relevant to the charges;

(ii) recall and re-examination of any witness is necessary to bring out true and relevant facts;

(iii) before exhibiting the additional evidence so called, the proceedings are adjourned if a request is made in that behalf by the Presenting Officer or the defendant as the case may be for not more than three clear days, exclusive of the day of adjournment and the date to which the proceedings are adjourned.

(20) The inquiring authority may, after the completion of the exhibition of evidence, hear the Presenting Officer and the defendant or permit them to file written briefs of their case, if they so desire.

(21) (i) The inquiring authority shall then prepare a report which shall contain—

(a) the charges and the allegations in support of the charges;

(b) the defence of the defendant in respect of each charge;

(c) an assessment of the evidence in respect of each charge;

(d) the findings on each charge and the reasons therefor. If in the opinion of such authority the proceedings of the inquiry establish charges different from those originally framed it may record findings on such charges provided that findings on such charges shall not be recorded unless the Government servant has admitted the facts constituting them or has had an opportunity of defending himself against them.

(ii) The inquiring authority where it is not itself the disciplinary authority shall forward to the disciplinary authority the records of inquiry which shall include—

(a) the charges framed against the Government servant and the statement of allegations furnished to it under sub-rule (5);

(b) his written statement of defence, if any;

(c) the oral and documentary evidence exhibited in the course of the inquiry;

(d) written briefs, if any filed during the course of the inquiry;

(e) the orders, if any, made by the Disciplinary Authority and the Inquiring Authority in regard to the inquiry; and

(f) the report of the inquiring authority.

Action on the Inquiry Report:

11. (1) The disciplinary authority, if it is not itself the inquiring authority, may for reasons to be recorded in writing remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall then proceed to hold the further inquiry according to the provisions of Rule 10 as far as may be.

(2) The disciplinary authority shall, if it disagrees with all or any of the findings of the inquiring authority, record its reasons for disagreement and record its own findings, if the evidence on record is sufficient to do so or remit the case for further inquiry as provided for in sub-rule (2).

(3) If the Disciplinary Authority having regard to its findings is of the opinion that any of the penalties in clauses (i) to (iv) of Rule 7 should be imposed, notwithstanding anything contained in Rule 12, it shall pass appropriate orders in the case:

Provided that in every case where it is necessary to consult the Commission, the record of inquiry shall be forwarded by the disciplinary authority to the Commission for its advice and such advice taken into consideration before passing the orders.

(4)(i) If the disciplinary authority having regard to its findings on the charges, is of the opinion that any of the penalties specified in clauses (v) to (xi) of Rule 7 should be imposed, it shall—

(a) furnish to the Government servant a copy of the report of the Inquiring Authority and, where the Disciplinary Authority is not the Inquiring Authority, a statement of its findings together with brief reasons for disagreement, if any, with the findings of the Inquiring Authority; and

(b) give him a notice stating the penalty proposed to be imposed on him and calling upon him to submit within 15 days of receipt of the notice such representation as he may wish to make on the proposed penalty on the basis of the evidence adduced during the inquiry held under Rule 10.

NOTE.—The disciplinary authority may instead of specifying one penalty require the defendant to show cause alternatively against imposition of any one of the penalties specified in clauses (v) to (ix) of Rule 7.

(ii) (a) In every case in which it is necessary to consult the Commission, the record of the inquiry, together with a copy of the notice given under clause (i) and the representation made in response to such notice, if any, shall be forwarded by the Disciplinary Authority to the Commission for its advice.

(b) On receipt of the advice of the Commission, the Disciplinary Authority shall consider the representation, if any, made by the Government servant as aforesaid and the advice given by the Commission and determine what penalty, if any, should be imposed on the Government servant and pass appropriate orders on the case.

(iii) In any case in which it is not necessary to consult the Commission, the Disciplinary Authority shall consider the representation, if any, made by the Government servant in response to the notice under clause (i) and determine what penalty, if any, should be imposed on the Government servant and pass appropriate orders on the case.

Procedure for imposing minor penalties

12. (1) No order imposing any of the penalties specified in clauses (i) to (iv) of Rule 7 shall be imposed except after—

(a) the Government servant is informed in writing of the proposal to take action against him and of the allegations on which it is proposed to be taken and given an opportunity to make any representation he may wish to make;

(b) an inquiry held in accordance with sub-rules (10) to (21) of Rule 10, in cases where in the opinion of the disciplinary authority such an inquiry is necessary;

(c) the representation submitted under clause (a) of this sub-rule or the record of inquiry held under sub-clause (b) is taken into consideration by the disciplinary authority; and

(d) the Commission is consulted where such consultation is necessary.

(2) The record of proceedings in such cases shall include—

(i) copy of the intimation to the Government servant of the proposal to take action against him;

(ii) a copy of the statement of allegations communicated to him;

(iii) his representation or the record of inquiry; if any;

(iv) the advice of the Commission, if any; and

(v) the orders on the case together with the reasons therefor.

Communication of Orders

13. Orders passed by the Disciplinary Authority shall be communicated to the Government servant who shall also be supplied with a copy of the report of the Inquiring Authority and, where the Disciplinary Authority is not the Inquiring Authority, a statement of its findings together with brief reasons for disagreement, if any, with the findings of the Inquiring Authority, unless they have already been supplied to him, and also a copy of the advice, if any, given by the Commission and, where the Disciplinary Authority, has not accepted the advice of the Commission, a brief statement of the reasons for such non-acceptance.

Joint Inquiry

14. (1) Where two or more Government servants are concerned in any case, the President or any other authority competent to impose the penalty of dismissal from service on all such Government servants may make an order directing that disciplinary action against all of them may be taken in a common proceeding.

NOTE.—If the authorities competent to impose the penalty of dismissal on such Government servants are different, an order for taking action in a common proceeding may be made by the highest of such authorities with the consent of the others.

(2) Subject to the provisions of sub-rule (4) of Rule 8, any such order shall specify:—

(i) the authority which may function as the Disciplinary Authority for the purpose of such common proceeding;

(ii) the penalties specified in Rule 7 which such Disciplinary Authority shall be competent to impose; and

(iii) whether the procedure prescribed in Rule 10 or Rule 12 may be followed in the proceeding.

Special Procedure in certain cases

15. Notwithstanding anything contained in Rules 10, 12 and 14:—

(i) where a penalty is imposed on a Government servant on the ground of conduct which has led to his conviction on a criminal charge; or

(ii) where the Disciplinary Authority is satisfied for reasons to be recorded in writing that it is not reasonably practicable to follow the procedure prescribed in the said rules; or

(iii) where the President is satisfied that in the interest of the security of the State, it is not expedient to follow such procedure;

the Disciplinary Authority may consider the circumstances of the case and pass such orders thereon as it deems fit;

Provided that the Commission shall be consulted before passing such orders in any case in which such consultation is necessary.

Provisions regarding officers lent to State Governments etc.

16. (1) Where the services of a Government servant are lent by one department to another department or to a State Government or an authority subordinate thereto or to a local or other authority (hereinafter in this rule referred to as "the borrowing authority"), the borrowing authority shall have the powers of the Appointing Authority for the purpose of placing him under suspension and of the Disciplinary Authority for the purpose of taking a disciplinary proceeding against him:

Provided that the borrowing authority shall forthwith inform the Authority which lent his services (hereinafter in this rule referred to as "the lending authority") of the circumstances leading to the order of his suspension or the commencement of the disciplinary proceeding, as the case may be.

(2) In the light of the findings in the disciplinary proceeding taken against the Government servant:—

(i) if the borrowing authority is of the opinion that any of the penalties specified in clauses (i) to (iv) of Rule 7 should be imposed on him, it may, in consultation with the lending authority pass such orders on the case as it deems necessary:

Provided that in the event of a difference of opinion between the borrowing authority and the lending authority, the services of the Government servant shall be replaced at the disposal of the lending authority;

(ii) if the borrowing authority is of the opinion that any of the penalties specified in clauses (v) to (xi) of Rule 7 should be imposed on him, it shall replace his services at the disposal of the lending authority and transmit to it the proceedings of the inquiry and thereupon the lending authority may, if it is the Disciplinary Authority, pass such orders thereon as it deems necessary, or, if it is not the Disciplinary Authority, submit the case to the Disciplinary Authority, which shall pass such orders on the case as it deems necessary:

Provided that in passing any such order the Disciplinary Authority shall comply with the provisions of Rule 10.

Explanation.—The Disciplinary Authority may make an order under this clause on the record of the inquiry transmitted by the borrowing authority, or after holding such further inquiry as it may deem necessary in accordance with Rule 10 as far as may be.

Provisions regarding officers borrowed from State Governments etc.

17. (1) Where an order of suspension is made or a disciplinary proceeding is taken against a Government servant whose services have been borrowed by one department from another department or from a State Government or an authority subordinate thereto or a local or other authority, the authority lending his services (hereinafter in this rule referred to as "the lending authority") shall forthwith be informed of the circumstances leading to the order of his suspension or the commencement of the disciplinary proceeding, as the case may be.

(2) In the light of the findings in the disciplinary proceeding taken against the Government servant if the disciplinary authority is of the opinion that any of the penalties specified in clauses (i) to (iv) of Rule 7 should be imposed on him, it may, subject to the provisions of sub-rule (3) of the Rule 11 and except in regard to a Government servant serving in the Intelligence Bureau of or below the rank of Assistant Central Intelligence Officer, after consultation with the lending authority, pass such orders on the case as it deems necessary:

(i) *Provided* that in the event of a difference of opinion between the borrowing authority and the lending authority the services of the Government servant shall be replaced at the disposal of the lending authority;

(ii) if the Disciplinary Authority is of the opinion that any of the penalties specified in clauses (v) to (xi) of Rule 7 should be imposed on him, it shall replace his services at the disposal of the lending authority and transmit to it the proceedings of the inquiry for such action as it deems necessary.

CHAPTER V

APPEALS

Orders against which no appeal lies

18. Notwithstanding anything contained in this Chapter, no appeal shall lie against:—

(i) any order made by the President;

(ii) any order of an interlocutory nature or of the nature of a step-in-aid to the final disposal of a disciplinary proceeding, other than an order of suspension;

(iii) any order passed by an inquiring authority in the course of an inquiry under Rule 10.

Orders against which appeal lies

19. Subject to the provisions of Rule 18, a Government servant may appeal against any of the following orders:

(i) an order of suspension made or deemed to have been made under Rule 4;

(ii) an order made under sub-clause (ii) of clause (a) of the Proviso to Rule 5 and an order made under Rule 6 by which he is aggrieved;

(iii) an order imposing any of the penalties specified in Rule 7 by the disciplinary authority;

(iv) an order imposing any of the penalties specified in Rule 7 by an appellate or reviewing authority in cases where no such penalty was imposed in the first instance or enhancing the penalty imposed in the first instance;

(v) an order which:—

(a) denies or varies to his disadvantage his pay, allowances, pension or other conditions of service as regulated by rules or by agreement; or

(b) interprets to his disadvantage the provisions of any such rule or agreement;

(vi) an order:—

(a) stopping a Government servant at the efficiency bar in the time-scale on the ground of his unfitness to cross the bar;

(b) reverting to a lower Service, grade or post, a Government servant officiating in a higher Service, grade or post, otherwise than as a penalty;

(c) reducing or withholding the pension or denying the maximum pension admissible under the rules;

(d) which has the effect of superseding a Government servant in promotion from the junior to the senior scale, where such scales are in existence.

Explanation.—In this rule:—

(i) the expression 'Government servant' includes a person who has ceased to be in Government service;

(ii) the expression 'pension' includes additional pension, gratuity and any other retirement benefit.

Appellate Authority

20. (1) A Government servant not being a member of an All-India Service may appeal against any of the orders specified in Rule 19 to the authority specified in this behalf either in the schedule or by a general or special order of the President or, where no such authority is specified:—

(i) where such Government servant is/was a member/holder of a Central Civil Service/Post, Class I or Class II:—

(a) to the appointing authority, where the order appealed against is made by an authority subordinate to it; or

(b) to the President, where such order is made by any other authority;

(ii) where such Government servant is/was a member/ holder of a Civil Service/Post, Class III or Class IV, to the authority to which the authority making the order appealed against is immediately subordinate.

(2) A Government servant who is a member of an All India Service may appeal against any of the orders specified in Rule 19, to the Central Government, if such an order had been made by a State Government.

(3) Notwithstanding anything contained in sub-rule (1),

(i) an appeal against an order in a common proceeding held under Rule 14 shall lie to the authority to which the authority functioning as the disciplinary authority for the purpose of that proceeding is immediately subordinate;

(ii) where the person who made the order appealed against becomes, by virtue of his subsequent appointment or otherwise, the prescribed appellate authority in respect of such order, an appeal against such order shall lie to the authority to which such person is immediately subordinate.

Period of limitation for appeals

21 No appeal under this Chapter shall be entertained unless it is submitted within a period of fortyfive days from the date on which the appellant receives a copy of the order appealed against:

Provided that the appellate authority may entertain the appeal after the expiry of the said period, if it is satisfied that the appellant had sufficient cause for not submitting the appeal in time.

Form and contents of appeal

22. (1) Every person submitting an appeal shall do so separately and in his own name.

(2) The appeal shall be addressed and submitted to the authority to whom the appeal lies, shall contain all material statements and arguments on which the appellant relies, shall not contain any disrespectful or improper language, and shall be complete in itself.

(3) A copy of every appeal submitted under sub-rule (2) shall also be forwarded by the appellant to the authority which made the order appealed against.

Consideration of appeals

23. (1) In the case of an appeal against an order of suspension, the appellate authority shall consider whether in the light of the provisions of Rule 4 and having regard to the circumstances of the case the order of suspension is justified or not and confirm or revoke the order accordingly.

(2) In the case of an appeal against an order imposing any of the penalties specified in Rule 7 or enhancing any of the said penalties so imposed, the appellate authority shall consider:—

(a) whether the procedure prescribed in these rules has been complied with, and if not whether such non-compliance has resulted in violation of any provisions of the Constitution or in failure of justice;

(b) whether the findings are justified; and

(c) whether the penalty imposed is excessive, adequate or inadequate;

and pass orders:—

(i) confirming, reducing, enhancing the penalty or setting aside;

or

(ii) remitting the case to the authority which imposed the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case:

Provided that—

(i) the Commission shall be consulted in all cases where such consultation is necessary except in cases where the

order is set aside with a direction to hold a further or fresh inquiry or the case is remitted under sub-rule (2);

(ii) if the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in clauses (v) to (xi) of Rule 7 and an inquiry under Rule 10 has not already been held in the case, the appellate authority shall subject to the provisions of Rule 15, direct that such inquiry be held in accordance with the provisions of Rule 10 and thereafter on consideration of the proceedings of such inquiry and after giving the appellant an opportunity of making any representation which he may wish to make against such penalty, pass such orders as it may deem fit; and

(iii) no order imposing an enhanced penalty shall be passed unless the appellant is given an opportunity of making any representation which he may wish to make against such enhanced penalty.

(3) In the case of an appeal against any other order specified in Rule 19, the appellate authority shall consider all the circumstances of the case and pass such orders as it deems just and equitable.

Implementation of orders in appeal

24. The authority which made the order appealed against shall give effect to the orders passed by the appellate authority.

CHAPTER VI

REVIEW AND MEMORIALS

Review

25. (1) Notwithstanding anything contained in these rules, proceedings for review of any order which is made under these rules or is appealable under these rules or the rules repealed by Rule 30 may be instituted on his or its own motion or otherwise. after calling for the records of the case by—

(i) the President, at any time;

(ii) any other authority specified in this behalf by a general or special order of the President, within such time as may be prescribed by the President in such general or special order;

(iii) by—

(a) the Comptroller and Auditor-General, in the case of a Government servant in the Indian Audit and Accounts Department; and

(b) the 'Head of a Department' directly under the Central Government, in the case of a Government servant in a Department or Office, not being the Secretariat or the Indian Audit and Accounts Department, which is under the control of such 'Head of a Department':

Provided that the authority which made the order in appeal or in review, or where no appeal has been preferred or no review has been made, the authority to which an appeal would lie or which is competent to review the order, is subordinate to the Comptroller and Auditor-General or such Head of Department, as the case may be.

(iv) by the appellate authority, within six months of the date of the order proposed to be reviewed;

(v) by the authority which passed the order, within a period of three months from the date of the order proposed to be reviewed, provided that the order was not passed by a predecessor in office.

Explanation.—The period of limitation prescribed above shall be computed subject to the provisions of sub-rule (2) of this rule.

(2) No proceeding for review shall be instituted until after the expiration of the period prescribed for submitting an appeal or when such an appeal is pending or has been considered and decided.

(3) The authority which is moved for review of any order may condone the delay in its being so moved within the prescribed time, if good and sufficient cause is shown for the delay.

(4) No proceeding for review shall be instituted except on any one or more of the following grounds:

(a) there is an error apparent on the face of the record;

(b) new evidence has become available which with due diligence could not have been adduced at the earlier stages;

(c) the order proposed to be reviewed is manifestly illegal, arbitrary, malafide or inadequate or is based on an erroneous interpretation of the law or rules.

Explanation.—That the order proposed to be reviewed has consequences more harsh than was intended or deemed to have been intended shall not be a ground for instituting a proceeding for review.

(5) A proceeding instituted under this rule shall be dealt with in the same manner as if the Government servant had preferred an appeal against such order.

(6) The authority acting in exercise of the powers under this rule may—

(a) confirm, modify or set aside the order;

(b) impose any penalty or confirm, reduce, enhance or set aside the penalty imposed by the order.

(c) remit the case to the authority which made the order or to any other authority directing such further action or inquiry as it considers proper in the circumstances of the case; or

(d) pass such other orders as it deems fit;

Provided that—

(i) an order imposing or enhancing a penalty shall not be passed unless the person concerned has been given an opportunity of making any representation which he may wish to make against such order and if the penalty proposed to be imposed is any of the penalties specified in clauses (v) to (xi) of Rule 7 and if an inquiry under Rule 10 has not been held, it shall, subject to the provisions of Rule 15, direct that such inquiry be held and thereafter on consideration of the proceedings of such inquiry and after giving the person concerned an opportunity of making any representation which he may wish to make against such penalty, pass such orders as it may deem fit;

(ii) the Commission shall be consulted in all cases where such consultation is necessary except in cases where the order is set aside with a direction to hold a fresh or further inquiry or is remitted under clause (c) of sub-rule (6).

Memorials

26. (1) A Government servant shall be entitled to submit not more than one memorial within a period of six months from the date of an order to the President against any order by which he is aggrieved provided that such an order is not—

(i) of an interlocutory nature or a step-in-aid to the final disposal of a disciplinary proceeding instituted under the provisions of these rules;

(ii) one passed by an inquiring authority during the course of an inquiry under Rule 10.

(2) Every memorial shall be authenticated by the signature of the memorialist and submitted by the memorialist on his own behalf.

(3) Every memorial submitted under these rules shall—

(a) contain all material statements and arguments relied upon by the memorialist;

(b) contain no disrespectful or improper language;

(c) be complete in itself;

(d) state the particulars of any previous appeal or memorial filed by him and the result thereof; and

(e) end with a specific prayer.

(4) The President may pass such order as may be deemed just and appropriate after consulting the Commission, in cases where it had not been previously consulted, or when it is proposed to modify the order which is the subject of the memorial.

(5) The authority against whose order a memorial is submitted shall give effect to any order passed thereon by the President.

CHAPTER VII

MISCELLANEOUS

Service of orders, notices, etc.:

27. Every order notice and other processes made or issued under these rules shall be served in person on the Government servant concerned or communicated to him by registered post.

Recording of reasons for an order

28. Reasons shall be recorded in writing for every order made under these rules.

Power to condone delay

29. Without prejudice to the specific provision made in this behalf in any of the foregoing rules, the competent authority may for good and sufficient reasons or if sufficient cause is shown extend the time prescribed for doing anything under the provisions of the foregoing rules or condone the delay whenever a time or period of limitation is prescribed.

Repeal and Saving:

30. (1) To the extent to which provision has been made in these rules, the rules specified in Schedule I are hereby repealed:

Provided that—

(a) such repeal shall not affect the previous operation of the said rules, notifications and orders or anything done or any action taken thereunder;

(b) any proceedings under the said rules, notifications or orders pending at the commencement of these rules shall be continued and disposed of as far as may be, in accordance with the provisions of these rules.

(2) Nothing in these rules shall operate to deprive any person to whom these rules apply of any right of appeal which had accrued to him under the rules, notifications or orders repealed by sub-rule (1) in respect of any order passed before the commencement of these rules.

(3) An appeal pending at or preferred after the commencement of these rules against an order made before such commencement shall be considered and orders thereon shall be passed, in accordance with these rules.

Removal of Doubts:

31. Where a doubt arises as to the interpretation of any of the provisions of these rules, the matter shall be referred to the President or such other authority as may be specified by the President by a general or special order whose decision thereon shall be final.

SCHEDULE I (Rule 30)

(1) The All India Services (Discipline and Appeal) Rules, 1955.

(2) The Central Civil Services (Classification, Control and Appeal) Rules, 1957.

(3) Discipline and Appeal Rules for Railway Servants, other than those employed in the Railway Protection Force, 1961.

(4) Civilians in Defence Services (Classification, Control and Appeal) Rules, 1952.

ANNEXURE V

K. Santhanam,
Chairman,
Committee on Prevention
of Corruption

D.O. No. 1/20/63-CPC
Government of India,
Ministry of Home Affairs
(Committee on Prevention of Corruption)

New Delhi, dated 19/20th December, 1963.

My dear Nandaji,

The Committee have examined the question of Government servants accepting commercial employment after retirement. I am enclosing the report of the Committee which contains their recommendations on the subject.

Yours sincerely,
Sd: (K. Santhanam).

Shri G. L. Nanda,
Home Minister.

MAY 1964

Ministry of Home Affairs

(Committee on Prevention of Corruption).

The increasing tendency of Private Industrial and Commercial concerns to employ retired Government servants has been attracting public attention. It is generally believed that such employment is secured in many cases as a *quid pro quo* for favours shown by the Government servant while in service. It is also feared that high placed Government servants who accept such employment after retirement may be in a position, by virtue of their past standing, to exercise undue influence on Government servants in service who might have been their colleagues or subordinates. The fact that some of these retired Government servants who have accepted employment with private firms live in Delhi and perhaps operate as 'contact men' has further heightened these suspicions.

2. This issue was the subject of a half-hour discussion in 1958 and in August, 1961, a Member of Parliament moved a resolution in the Lok Sabha urging on Government to bring forward suitable legislation to debar retired Government employees from being re-employed in any Government or private service. It has also attracted critical comment in the Press and by public men. The Committee have, therefore, examined the question in detail. We are not in a position to say that such persons have succeeded to any extent in inducing the Government to show special favours to the firms they represent. Nor is it possible for us to say that they have had no influence. This dubious position gives rise to suspicion which it is desirable to avoid as far as it is reasonably possible.

3. The Committee examined a number of witnesses on this point, including two Ministers of the Central Government and a former Comptroller and Auditor General of India, the Cabinet Secretary and some retired Government servants. The views expressed by the witnesses varied widely. Some felt that there should be a complete ban on Government servants accepting commercial employment after retirement. Others were of the view that, in the larger interests of the country, the experience and ability of such persons should not be wasted and their services should not be denied to the private sector which is contributing to the economic development of the country. The latter also felt that apart from present constitutional and legal difficulties the present high cost of living makes it difficult for retired Government servants to live on their meagre pensions without much painful readjustment.

4. The question of imposing restrictions and conditions on the acceptance of employment with private firms by Government servants after retirement has been considered by Government on a number of occasions during the last 45 years. As far back as 1919-1920, the then Home Member considered that it was not right for retired Government servants, particularly those who have occupied high appointments, to take up commercial jobs without restriction, that the apprehension that any such restriction would lead to an infringement of their liberty was not justified, that no prohibition was likely to be effective without a sanction behind it, and that the only sanction which could be thought of was the withdrawal of pension. However, on that occasion, in spite of the Home Member's views, all that was done was the issue of a Resolution (Home Department's Resolution No. 1140, dated the 21st April, 1920) in which it was stated that "the Government of India have come to the conclusion that, while it is not necessary at the present time to lay down a definite rule, it is desirable that retired Government servants, especially gazetted officers, before accepting directorships, partnerships or agencies of, or employment by any company or firm or individual engaged in commercial business or associated with the management of land in India, should either obtain the consent of the Government of India, or if the company is managed in London, the consent of the Secretary of State. The Government of India believe that this procedure will conduce alike to the interests of the officers concerned and to those of the services generally, and are prepared to leave it to the good sense and loyalty of their officers to observe the procedure now suggested."

5. Subsequently, the question was considered on different occasions. In the year 1934, F.R. 69 was revised requiring a Government servant on leave preparatory to retirement to obtain the previous sanction of Government before accepting commercial employment. The matter was again raised in November 1946 in the Central Legislative Assembly and at the instance of the then Home Minister, the late Sardar Patel, C.S.R. 531-B was notified by which if a pensioner wishes to accept any commercial employment before the expiry of two years from the date of his retirement, he is required to obtain the previous sanction of the Government for such acceptance. On the 26th July, 1949, article 531-C of the C.S.Rs. was notified by which provision was made that no pension shall be payable to a pensioner who accepts commercial employment without proper permission, in respect of any period for which he is so employed or such longer period as the Government may direct. The position as far as the rules go remains the same as stated above even today. The effectiveness of these provisions may be judged from the fact that during the years 1947 to 1957, 50 ICS and other All India Services

officers including a large number of European officers who retired as a result of constitutional changes and 91 Class I officers were granted permission to accept commercial employment. During 1958-59 to 1961-62, 284 Class I officers accepted commercial employment with such permission. During the period 1959 to June 1962, 52 All India Service officers were granted permission to accept such appointments. Permission was refused to 11 Class I officers and 5 All India Service officers.

6. The points which have to be taken into account for granting such permission are:—

(1) Has the officer while in service had any such dealings with the proposed employer as might provoke the suspicion that he had shown favour to the latter?

(2) Will his commercial duties be such that his official knowledge and experience could be used to give the employer an unfair advantage?

(3) Will his duties be such as might bring him into conflict with Government?

(4) Is the proposed employment of a thoroughly reputable kind?

(5) Are there exceptional circumstances which would make the refusal of consent a real hardship?

7. No instance of the breach of the rule had come to the notice of the Committee and therefore there was no question of the penal provisions of C.S.R. 531-B being used.

8. The Committee have given careful consideration to the different views expressed on the subject and also to the various suggestions that were made. The Committee is anxious that a clear and unequivocal step should be taken immediately to dispel any impression that there is any sort of link or partnership, or community of interest, or collusion between the higher echelons of administration and the private corporate sector. Such an impression, whether justified or not, affects the prestige of the civil services. The present practice of giving permission on merits subject to the Government servant fulfilling certain criteria is not unreasonable. But it has got two major defects. In the present context of planning, relationship between Government and the private sector is so close and complicated that the good will of any highly placed Government servant is valuable to every private undertaking. However impartial the Ministry of Home Affairs or other authority empowered to give permission for such employment may be, it is inevitable that considerable pressure should be brought to bear upon it in individual cases,

and there will always be a feeling that those who manage to get permission have been able to pull strings effectively while those who have been refused have not had the necessary pull, and therefore have been unfairly discriminated against.

9. The Committee, therefore, have come to the conclusion that a complete ban against private commercial and industrial employment for two years after retirement is the only effective and salutary step that can be taken in this regard. The Committee feels that for the really capable Government servants this will not be a great hardship as his ability and efficiency will not be affected by the two years interval. On the other hand, the two years interval will eliminate all the irrelevant and improper considerations which may induce private employer to offer a lucrative job to a Government servant on the eve of retirement. The contact value of such servant will also be greatly deflated during these two years.

10. The only sanction for the enforcement of this ban is the forfeiture of pension. It may be that in particular cases the private employer may come forward to compensate the Government servant for the loss of pension. Such cases are likely to be very very rare and will not materially affect the salutary effects of the ban.

11. The Committee also feel that while this ban is necessary for clearing the atmosphere of suspicion that prevails at present, the ban will inflict special hardship on those Government servants whose pensions are subject to a maximum. It may be borne in mind that the salaries of these persons have not been raised by the two Pay Commissions while the increase of prices and higher income tax rates have combined to reduce considerably, and in many cases almost eliminate, the capacity of such servants to save while in service. They, therefore, feel that for the period of the ban the present rule relating to maximum pension should not apply, and they should get the pension they would be entitled to according to rules, if no such maximum had been imposed.

12. The ban we have proposed will apply only to private commercial and industrial employments. Retired Government servants will be free to accept any employment of a scientific, cultural or educational character. If there is any doubt as to whether any employment is of the latter character or is of the nature of industrial or commercial employment, the Ministry of Home Affairs will be final authority to decide.

13. The Committee therefore recommend that—

(i) if it is legally permissible, the present rules be amended to provide that no Government servant shall, for two

years after retirement, accept any commercial employment in the private sector.

(ii) breach of this rule shall entail forfeiture of pension.

(iii) if there is any legal or constitutional difficulty in making the amendment proposed in (i) above, the policy should be that no permission should be granted to any Government servant to accept any commercial employment for two years after retirement.

(iv) for the period of the two years during which a pensioner is prohibited from accepting any commercial employment in the private corporate sector, he should get the pension that he would be entitled to according to rules if it were calculated in accordance with his actual salary and not with reference to the maximum now prescribed for such calculation.

(v) a pensioner should be free to accept any employment of a scientific, cultural or educational character within this period.

(vi) if there is any doubt as to whether any employment is of a scientific, cultural or educational character, or commercial employment, the Ministry of Home Affairs shall be the final authority to decide the question.

ANNEXURE VI

SCHEME OF THE CENTRAL VIGILANCE COMMISSION

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

Statement laid on the Tables of Lok Sabha and Rajya Sabha on 16th December, 1963.

Subject: Proposal to set up a Central Vigilance Commission

The Committee on Prevention of Corruption presided over by Shri K. Santhanam had submitted two reports, recommending in the first report the setting up of an organisation to be called the Central Vigilance Commission, and in the second the conferring of certain powers similar to those under Sections 4 and 5 of the Commissions of Inquiry Act, 1952, on the Central Vigilance Commissioner so that he might undertake any inquiry into transactions in which public servants were suspected or alleged to have acted improperly or in a corrupt manner. Copies of the two reports of the Committee are annexed—Annexure I.* After giving very careful thought to the recommendations made by the Santhanam Committee the Government have decided to set up a Central Vigilance Commission, with powers and functions as described in Annexure II.**

2. The main recommendations of the Santhanam Committee may be summarised as follows:—

(i) The Central Vigilance Commission should in its functioning be independent of Government and may not be answerable to any Minister even though administratively placed under the Ministry of Home Affairs.

(ii) It should deal comprehensively with two of the major problems of administration, namely—

(a) prevention of corruption and maintenance of integrity; and

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(*See Annexure VI-A).

(** See Annexure VI-C).

(b) ensuring just and fair exercise of administrative powers vested in various authorities by statutory rules or by non-statutory executive orders.

(iii) The powers and responsibilities in disciplinary matters which are at present decentralised should in the main be centralised in the Commission, the only exception being the power given to the Delhi Special Police Establishment to make preliminary inquiries or to institute and investigate a regular case whenever they consider it necessary to do so.

(iv) The Central Vigilance Commission should consist of three Directorates, one to deal with general complaints of citizens (Directorate of General Complaints and Redress), another to deal with all vigilance matters (Directorate of Vigilance), and the third the Central Police Organisation which would exercise the powers now exercised by the Delhi Special Police Establishment till such time as the Central Bureau of Investigation is set up. (The Central Bureau of Investigation was set up on 1st April, 1963).

3. The importance and urgency of providing a machinery for looking into the grievances of citizens against the administration and for ensuring just and fair exercise of administrative powers, is fully recognised. But it is considered that this problem is big enough to require a separate agency or machinery and that apart from this the Central Vigilance Commission would be overburdened if this responsibility were to be placed upon it, and the Commission might as a result be less effective in dealing with the problem of corruption. The Government have, therefore, decided that for the present action should be taken only on such of the recommendations of the Committee as relate to prevention of corruption and maintenance of integrity in the public services. Accordingly, the Commission will not have a Directorate of General Complaints and Redress. The question of evolving a machinery for dealing with the grievances of citizens against the administration is being separately examined, and the Department of Administrative Reforms, which is contemplated, will work out the details of such a machinery.

4. The basic principle on which the vigilance arrangements are at present based is that each Ministry/Department/undertaking is responsible for preventing corruption and maintaining integrity in its sphere of activity. The Administrative Vigilance Division, which

was set up in the Ministry of Home Affairs in 1955, functions substantially in an advisory capacity. Complete centralisation of powers and responsibilities in regard to inquiry or investigation into complaints and all subsequent action thereon would not only undermine the initiative and sense of responsibility of the Ministries/Departments/undertakings, but would also lead to practical and legal difficulties, for the following reasons:

(i) Central Government employees are large in number and are spread throughout the country;

(ii) there are so many matters which can more conveniently be investigated by departmental officers;

(iii) the initiation, conduct and final disposal of disciplinary proceedings involve detailed management, some executive decisions, and action at certain stages under statutory rules; and all these cannot be centralised without causing delay and multiplication of staff;

(iv) under the Prevention of Corruption Act only the appointing authority is authorised to sanction prosecution, and this power cannot be given to the Commission without amending the law; and

(v) there are certain disciplinary powers which cannot be given to the Vigilance Commissioner without amending Article 311 of the Constitution.

It has, therefore, been decided that there should be centralisation of powers and responsibilities in the Central Vigilance Commission only to the extent necessary to make it effective. For the rest the Commission should have the reserve power to intervene when it considers it necessary to do so, and it should be kept fully in the picture by the Ministries, etc. in order that it may be able to exercise that power.

5. In considering the Committee's recommendations it has also been kept in view that the functions of the Commission should be fitted into our constitutional structure, and that the Minister's responsibilities, and his accountability to Parliament, should remain unaffected.

6. As regards the Committee's recommendation that certain powers similar to those under Sections 4 and 5 of the Commissions of Inquiry Act, 1952, should be conferred on the Central Vigilance Commissioner so that he may undertake any inquiry into transactions in which public servants are suspected or alleged to have acted for

an improper purpose or in a corrupt manner, the Government consider that the Commission would normally get inquiries or investigations made by the Central Bureau of Investigation, the Commissioners for Departmental Inquiries or the departmental authorities, and that in any exceptional case where the Commission wishes to make an inquiry itself the Government can appoint it a Commission of Inquiry under the Commissions of Inquiry Act.

7. As regards the Committee's recommendation that the Central Vigilance Commissioner should hold office for a term of six years or till he attains the age of 65, whichever is earlier, it has been decided that the best person available, irrespective of his age, should be appointed the first Vigilance Commissioner, and that Government should also have the freedom to determine his tenure. Even for future appointments these conditions regarding age and tenure may have to be modified after further consideration. It is proposed to appoint as the first Central Vigilance Commissioner a person who has held one of the highest judicial offices in the country or who has high standing in public life.

8. The scheme of the Commission——Annexure II**——has been drawn up keeping in view the considerations mentioned in paragraphs 3, 4, 5, 6 and 7 above. The Central Vigilance Commission will have, in the sphere of vigilance, a status and a role broadly corresponding to those of the Union Public Service Commission. It will have extensive functions designed to ensure that complaints of corruption or lack of integrity on the part of public servants are given prompt and effective attention, and that the offenders are brought to book without fear or favour. In the constitutional and legal sense, its functions would be advisory. But in reality, they would be advisory in the same sense as those of the Union Public Service Commission. The combined effect of the independence of the Commission, the nature of its functions, and the fact that its report would be placed before Parliament, would be to make the Commission a powerful force for eradication of corruption in the public services.

(**See Annexure VI-C.)

(ANNEXURE VI—A)

ANNEXURE I

D.O. No. 1/4/63-CPC Dated the 22nd Feb., 1963

COMMITTEE ON PREVENTION OF CORRUPTION

My dear Shastriji,

I am enclosing herewith the recommendations of the Committee on Prevention of Corruption on the reorganisation of the Administrative Vigilance Division.

2. The Committee fully appreciates the efforts made by the present vigilance arrangements and the activities of the Delhi Special Police Establishment in checking and combating corruption. It feels, however, that the present arrangements are not adequate and require important modifications in several directions.

3. The present arrangements consisting of the Administrative Vigilance Division in the Home Ministry and Vigilance Officers in all the Ministries and Departments are mainly intended to investigate and punish corruption and misuse of authority by individual members of the civil services under the Government of India. While this is indispensable, the Committee feels that the Central Vigilance Organisation should be expanded so as to deal with complaints of failure of justice or oppression or abuse of authority suffered by the citizens though it may be difficult to attribute them to any particular official or officials. These abuses may result from the procedures and attitudes of particular departments or sets of officials. The Committee considers that the problem of maintaining integrity in administration cannot be viewed in isolation from the general administrative processes. In order to deal effectively with the problem, it is necessary to take into account the root causes of which the most important is the wide discretionary power which has to be exercised by the executive in carrying on the complicated work of modern Administration. Also, the lack of any high-level agency to whom the aggrieved citizen may resort and the discontent caused thereby tends to exaggerate the problem of corruption in his mind

4. The Committee has studied the arrangements made in some other countries like Sweden and Denmark where the institution of the Ombudsman exists. The Ombudsman is responsible for

examining all complaints of mal-administration or unfair administrative action whether it is due to corrupt motives or spite or mere laziness or inefficiency.

5. The Committee also took note of the fact that in New Zealand an Act has been passed to set up and office known as the office of the Parliamentary Commissioner for a similar purpose. In France the institution of administrative courts is intended to provide a cheap and quick remedy for redress of grievances against administrative decisions. In Soviet Russia the Procurator-General, his Regional and Area Assistants serve as the link between the citizen and the administration for the purpose of redress of grievances.

6. The Committee, however, has not copied to any extent any of these institutions. It has only accepted the idea of broadening the scope of the present machinery to include investigation into public complaints made through specific responsible agencies referred to in para 11 of the recommendations.

7. At present, there is no organic relation between the Administrative Vigilance Division and the Vigilance Officers of the various departments. We understand that in some of the departments the Vigilance Officers are taking a keen interest in their work while in others they do not take their responsibilities in this matter seriously. It is also essential to evolve or apply common standard in matters relating to prosecution, departmental action and the award of punishment. The Committee feels that the time has come to put the entire Vigilance Organisation on a proper and adequate basis without in any way undermining the general principle that the Secretaries and Heads of Departments are primarily responsible for the purity, integrity and efficiency of their departments.

8. It is needless to say that neither the Administrative Vigilance Division nor the Vigilance Officers in the Departments would be able to function effectively without the assistance of the Delhi Special Police Establishment. While there has been a large measure of co-operation between the Vigilance Organisations and the Delhi Special Police Establishment there are still many loose ends which have to be tied up and rules and conventions have to be established relating to matters where there are differences between the Secretaries/Heads of Departments, the Delhi Special Police Establishment and the Administrative Vigilance Division in respect of action to be taken in particular cases.

9. Recently, the Home Ministry are reported to have decided on the establishment of a Central Bureau of Investigation of which the Delhi Special Police Establishment will become a part. The Committee has not yet been informed of the structure or functions of the

new Central Bureau of Investigation. The Committee has no intention of making any complaint about it. It realises that, besides cases of corruption, it is necessary for the Government of India to investigate many political, diplomatic and other matters. It would be wasteful and unsatisfactory to have two distinct police establishments, one for investigating cases of corruption and the other for other matters.

10. At the same time, it is obvious that without an adequate police organisation for investigating cases of corruption, for prosecuting corrupt officials before courts and for assisting departmental inquiries, the vigilance arrangements will be wholly ineffective. It is, therefore, essential as indicated in para 25 of the recommendations that proper arrangements should be made for the dual work of the Delhi Special Police Establishment.

11. For all these reasons, the Committee have decided to forward to you the recommendations regarding the general set up of a Central Vigilance Commission. It is hoped that the Government will be able to accept the scheme and intimate the Committee so that its further recommendations may fit in with it.

12. Meanwhile, the Committee will be engaged in scrutinising the scope for corruption in the various departments and the existing arrangements for dealing with it. It is proposed to forward to you the Committee's interim recommendations with respect to each of these departments.

13. When the Committee has completed its review of all the Departments and has dealt with the other terms of reference, it will attempt to make a survey of the problem of corruption as a whole in all its aspects.

14. It will also make an estimate of the personnel that may be required and make recommendations regarding the methods of recruitment and training and other ancilliary matters.

Yours sincerely,

(Sd.) K. Santhanam, Chairman,
Committee on Prevention of Corruption.

Shri Lal Bahadur Shastri,
Home Minister,
Government of India,
New Delhi.

K. Santhanam,

Chairman.

D.O. No. 1/4/63-CPC

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

(Committee on Prevention of Corruption)

New Delhi, August 17, 1963.

My dear Shastriji,

The Committee held its 11th meeting on the 16th and 17th of August, 1963.

The non-official Members of the Committee expressed a unanimous desire that I should ascertain from you Government's reactions regarding the Committee's recommendations for the establishment of a Central Vigilance Commission. The Members of the Committee felt that this was a very important recommendation which would go a long way to rehabilitate public confidence which has been rather badly shaken by recent events.

The Members of the Committee also expressed concern that in a matter like the Serajjudin affair, it had been possible for a number of officials of high rank to have been involved in the alleged malpractices over a period of time without their involvement being detected. Following a discussion of this aspect of the matter the Committee decided that a supplementary recommendation should be made to the effect that the Central Vigilance Commissioner should be given by suitable legislation the powers that would be exercised by a Commission of Inquiry appointed under the Commissions of Inquiry Act, 1952, so that he may undertake any inquiry relating to transactions in which public servants are suspected or alleged to have acted improperly or in a corrupt manner. The Committee approved that another paragraph may be added as paragraph 6A after paragraph 6 of the scheme regarding the Central Vigilance Commission. The proposed addition as approved by the Committee is enclosed as annexure* to this letter.

Yours sincerely,
(Sd/-) K. Santhanam.

Shri Lal Bahadur Shastri,
Home Minister,
Government of India,
NEW DELHI.

(*See Annexure VI-B)

(ANNEXURE VI—B)

ANNEXURE

Paragraph 6A of the scheme regarding the Central Vigilance Commission.

"The Central Vigilance Commissioner should be given, by suitable legislation, the powers that could be exercised by a Commission of Inquiry appointed under the Commissions of Inquiry Act, 1952, so that, he may undertake any inquiry relating to transactions in which public servants are suspected or alleged to have acted improperly or in a corrupt manner and for this purpose he should have the power—

(i) to summon and enforce the attendance of any person and to examine him on oath;

(ii) to require the discovery and production of any document;

(iii) to receive evidence on affidavits:

(iv) to requisition any public record or copy thereof from any court or office;

(v) to issue commissions for the examination of witnesses or documents;

(vi) to require any person, subject to any privilege which may be claimed by that person, under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Central Vigilance Commissioner, may be useful for, or relevant to the subject matter of the inquiry undertaken by him;

(vii) to enter any building or place where the Central Vigilance Commissioner has reason to believe that any books of accounts or other documents relating to the subject matter of the inquiry may be found, and to seize any such books of accounts or documents or take extracts or copies therefrom, subject to the provisions of Sections 102 and 103 of the Code of Criminal Procedure in so far as they may be applicable. (This power of entry and seizure may be exercised by the Central Vigilance Commissioner or any officer not below the rank of a gazetted officer, especially authorised by him in this behalf.)"

SCHEME OF CENTRAL VIGILANCE COMMISSION AS RECOMMENDED BY THE COMMITTEE ON PREVENTION OF CORRUPTION.

The Organisation may be called "The Central Vigilance Commission."

2. The Commission should consist of the following three Directorate:—

(a) the Directorate of General complaints and redress.

(b) the Central Police Organisation.

(c) the Directorate of Vigilance.

3. The Chief Executive of the Commission may—

(a) be designated as Central Vigilance Commissioner,

(b) be appointed by the President by warrant under his hand and seal,

(c) be removable in the same manner as the Comptroller and Auditor General, or the Chairman or Member of the Union Public Service Commission,

(d) hold office for a term of six years or till he attains the age of 65, whichever is earlier,

(e) On ceasing to hold the office of Central Vigilance Commissioner, be ineligible for any further employment under the Union or State Governments,

(f) for the present be of the status of a Secretary to Government but not subordinate to any Ministry/Department.

(g) by convention, be for the present given the same measure of independence and autonomy as the Comptroller and Auditor General, or the Election Commissioner or the Union Public Service Commission.

4. The Commission may for the present be attached to the Ministry of Home Affairs. After a suitable period of experiment and trial, steps should be taken to put the Commission on a statutory basis and when this is done the provisions regarding appointment, suspension, removal made in the Constitution regarding the Comptroller and Auditor General or Election Commissioner, or the Chairman or Members of the Union Public Service Commission should be incorporated with suitable modifications.

5. The following shall be outside the purview of the Commission:—

(a) judicial acts of the Judiciary.

(b) acts/or omissions of Ministers of Government in their official capacity.

(c) actions of parliamentary committees whether legislative or procedural.

(d) legislative process.

(e) matters relating to security of State.

(f) discipline of Armed Forces.

(g) diplomatic actions.

(h) matters relating to foreigners or international authorities or Government's relations with other countries.

(i) acts/or omissions of persons who are not public servants or persons who are public servants but wholly under the rule making power of the Governor of a State except when involved with Central Government servants or involved in matters concerning the affairs or affecting the interests of the Central Government or in special circumstances and with the concurrence of the State Government concerned.

(j) any decision, recommendation, act, or omission in respect of which there is, under the provisions of any law, a right of appeal or objection, or a right to apply for a review, on the merits of the case, to any Court, or to any tribunal constituted by or under any law, whether or not that right of appeal or objection or application has been exercised in the particular case and whether or not any time prescribed for the exercise of that right has expired.

6. The Central Vigilance Commission should be vested with jurisdiction and power—

(1) to inquire into and investigate—

(a) complaints against acts or omissions, decisions or recommendation or administrative procedures or practices on the grounds that they are—

(i) wrong or contrary to law;

(ii) unreasonable, unjust, oppressive or improperly discriminatory;

(iii) in accordance wth a rule of law or a provision of any enactment or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory; or

(iv) based wholly or partly on a mistake of law or fact.

(b) complaints that discretionary powers have been exercised for improper purposes.

(c) complaints that a public servant—

(i) has exercised his powers for improper or corrupt purposes, or

(ii) has unjustifiably or corruptly refrained from exercising his powers.

(d) complaints of corruption, misconduct, lack of integrity or of other kinds of mal-practices or misdemeanours on the part of public servants including members of the All India Services even if such members are for the time being serving in connection with the affairs of a State Government.

(2) to make such recommendations as may be appropriate, after inquiry or investigation, to the Department and simultaneously to the Minister-in-charge of the Department which may include recommendations of the nature that—

(a) the matter may be given further consideration;

(b) the omission may be rectified;

(c) the decision be cancelled or varied or the procedure or the practice be changed;

(d) the law or rule be varied.

(3) to watch over the implementation, acceptance or otherwise of the recommendations made; and to bring to the notice of the Prime Minister cases of non-implementation or non-acceptance of the recommendation, if the reasons for such non-implementation or non-acceptance are not satisfactory.

(4) to initiate, conduct and complete such action as may be considered approprite including prosecution against a public servant found guilty of such of the complaints as are mentioned at 1 (c and d) above.

6A. The Central Vigilance Commissioner should be given, by suitable legislation, the powers that could be exercised by a Commission of Inquiry appointed under the Commissions of Inquiry Act, 1952, so that, he may undertake any inquiry relating to transactions in which public servants are suspected or alleged to have acted improperly or in a corrupt manner and for this purpose he should have the power—

(i) to summon and enforce the attendance of any person and to examine him on oath;

(ii) to require the discovery and production of any document;

(iii) to receive evidence on affidavits;

(iv) to requisition any public record or copy thereof from any court or office;

(v) to issue commissions for the examination of witnesses or documents;

(vi) to require any person, subject to any privilege which may be claimed by that person, under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Central Vigilance Commissioner, may be useful for, or relevant to the subject matter of the inquiry undertaken by him;

(vii) to enter any building or place where the Central Vigilance Commissioner has reason to believe that any books of accounts or other documents relating to the subject matter of the inquiry may be found, and to seize any such books of accounts or documents or take extracts or copies therefrom, subject to the provisions of Sections 102 and 103 of the Code of Criminal Procedure in so far as they may be applicable. (This power of entry and seizure may be exercised by the Central Vigilance Commissioner or any officer not below the rank of a gazetted officer, specially authorised by him in this behalf).

7. The Central Vigilance Commissioner shall be responsible for—

(i) supervising and coordinating the activities of the three Directorates referred to above.

(ii) perform such other duties as may be necessary for the efficient functioning of the Commission.

(iii) make such recommendations as he may consider necessary to the Ministries/Departments of the Government of India in regard to the matters dealt with in any one or more of the Directorates referred to above.

(iv) submit an annual report to the Parliament about the activities of the Commission and also drawing attention to the recommendation made by the Commission which have not been accepted or acted upon by the concerned Ministry or Department.

(v) to initiate at such intervals, as he may consider expedient, review of procedures and practice of administration in so far as they relate to—

(a) maintenance of integrity in administration;

(b) such other matters as are included within the purview of the Central Vigilance Commission.

(vi) appointment of Public Vigilance Committees at the Capitals of all States and Union Territories including Delhi and prescribe their functions. (These public Vigilance Committees may consist of 7 to 11 persons who are not associated with any political party and preferably consisting of retired Judges of the Supreme Court or High Courts, retired officers of high standing and prominent public men reputed for their independence and impartiality. Any member of the public should be at liberty to bring before this committee his complaint either personally or by letter. The committee will consider the complaints so received and in respect of those regarding which it considers that further investigation is necessary, the committee may forward such complaints to the Central Vigilance Commission).

(vii) collection of such statistics and other information as may be necessary.

8. The Central Vigilance Commissioner shall be provided with such staff, in addition to the three directors, as may be necessary to enable him to discharge his responsibilities. The staff may include such number of legal advisers and technical advisers as may be necessary.

DIRECTORATE OF GENERAL COMPLAINTS AND REDRESS

9. This Directorate shall be in charge of an officer not below the rank of a Joint Secretary to Government who may be designated as Director of General Complaints and Redress.

10. The Director of Complaints shall be appointed with the concurrence of the Vigilance Commissioner and shall be subordinate to the Vigilance Commissioner.

11. It shall be the duty of the Director of Complaints to inquire into or investigate or cause an inquiry or investigation to be made into:

(a) all complaints forwarded by the Committee on Petitions of the Lok Sabha and the Rajya Sabha;

(b) all complaints forwarded by the public Vigilance Committees;

(c) all complaints forwarded by Members of Parliament;

(d) other complaints in respect of matters falling within the purview of the Commission received in the Commission or which come to its notice in any other manner whatever, if they are, in his opinion, such as need to be investigated or inquired into.

Except in cases where the head of the department certifies that it is not in the interest of the security of the State to give the Director of Complaints access to any official records or to permit any official to give him any information contained in unpublished official records, he shall have—

(a) access to official records;

(b) the right of requiring any person, official or non-official, to give him any information including the production of documents;

(c) of examining the persons on oath, after this power is given by law.

12. The Director of Complaints may refuse to take up for investigation or inquiry a complaint if—

(a) it relates to matters not included in the jurisdiction of the Central Vigilance Commission;

(b) it is trivial, frivolous or lacking in good faith.

13. The Director of Complaints will conduct his investigation in private and shall observe the strictest secrecy in respect of information disclosed to him.

14. The Director of Complaints shall be provided with adequate staff and sufficient number of investigating officers including technical personnel to enable him to discharge his duties.

15. The Director of Complaints may on taking up any inquiry or investigations first get the comments of the Ministry or Department or the official concerned. If he finds that the comments are satisfactory he shall intimate the complainant of the same, if there is a known complainant. Unless the complainant wishes to adduce further evidence he shall close the inquiry or investigation. If he finds that the comments of the Ministry or Department or the explanation of the official concerned are or is not satisfactory or if the complainant wishes to adduce further evidence he may carry on further inquiry or investigation until the complaint is found to be justified or dismissed as unjustified.

16. (1) If on completion of the investigation the Director of Complaints is of the opinion that the decision, recommendation, act or omission, which was the subject matter of investigation, is—

(a) based wholly or partly on a mistake of law or fact;

(b) wrong or contrary to law;

(c) unreasonable, unjust, oppressive or unreasonably (improperly) discriminatory;

(d) the result of exercise of discretionary powers and that such powers had been exercised for improper purposes or on irrelevant grounds;

(e) in accordance with a rule of law or provision of any enactment or practice, that is, or may be unreasonable, unjust, oppressive or improperly discriminatory;

he may, after obtaining the approval of the Central Vigilance Commissioner, report his opinion and his reasons therefor to the appropriate department or organisation. In any such case, he may request the department or organisation to notify him within a specified time of the steps, if any, that are proposed to be taken on his opinion. He shall also send a copy of his report to the Minister concerned.

(2) If within a reasonable time after the report is made, no action is taken which seems to the Director of Complaints to be adequate and appropriate, he shall report the matter to the Central Vigilance Commissioner who, after considering the comments, if any, made by or on behalf of any department or organisation affected, may take action as provided for in sub-para (3) of para 6 and sub-para (iv) of para 7.

(3) If on completion of the investigation, the Director of Complaints has reasons to believe that the act or omission, decision or recommendation, is the result of some corrupt practice or misconduct amounting to an offence punishable in law, he may make over the case to the Special Police Establishment for further investigation.

(4) If on completion of the investigation, the Director of Complaints finds that the act or omission, decision or recommendation is the result of a misconduct of a nature that need not be investigated by the Special Police Establishment but which requires to be dealt with departmentally, he shall make over the case to the Director of Vigilance for such action as may be necessary.

17. The Director of Complaints shall keep a watch over the action taken in regard to his recommendations except in cases made over to the Director of Vigilance or Special Police Establishment.

DIRECTORATE OF VIGILANCE

18. This Directorate shall be in charge of an officer of the rank not below a Joint Secretary to Government and shall be appointed with the concurrence of the Vigilance Commissioner.

19. There shall also be one Chief Vigilance Officer in each Ministry/Department and Vigilance Officers in all Subordinate and Attached Offices and in all public sector undertakings. The Chief

Vigilance Officer may be of the rank of a Deputy Secretary and Vigilance Officers of a rank of Under Secretary or an equivalent rank. In the public sector undertakings the Vigilance Officer may be of such rank as may be decided by the Head of the undertaking in consultation with the Director of Vigilance. The Chief Vigilance Officers should be appointed in consultation with the Director of Vigilance and the Vigilance Officers in Subordinate and Attached Offices should be appointed in consultation with the Chief Vigilance Officer of the Ministry/Department. Any difference of opinion regarding the appointment of Chief Vigilance Officer should be referred to the Vigilance Commissioner and no person whose appointment as Chief Vigilance Officer is objected to by the Vigilance Commissioner should be so appointed.

20. The duties and responsibilities of the Director of Vigilance shall be—

(i) to co-ordinate and guide the activities of the Chief Vigilance Officers and other Vigilance Officers in the respective Ministries/Departments and to prescribe the duties of Vigilance Officers of all categories.

(ii) to initiate periodical assessment of the extent and modes of corruption and the measures necessary to combat the same.

(iii) to take such further action as may be necessary—

(a) in the cases made over to him by the Director of Complaints;

(b) in the cases referred to him by the Director of Special Police Establishment;

(c) in cases relating to disciplinary offences that come to his notice otherwise.

(iv) to determine the nature of disciplinary proceedings to be initiated and to initiate, conduct and complete such proceedings in cases relating to Class I and II Government servants particularly those cases which may result in dismissal, removal, compulsory retirement or withholding of pension in full and the more important of such cases relating to Class III Government servants.

(v) to refer for necessary action to the Ministry/Department concerned, with his advice, cases in which he considers that it would be sufficient to impose a penalty lesser than dismissal, removal, compulsory retirement or withholding of pension in full.

(vi) to decide, on the report of the Central Police Organisation, whether a prosecution or departmental action should be

resorted to in the first instance and to issue the sanction for prosecution in cases in which it is decided that a prosecution should be launched and where such sanction is necessary under the law. (In taking this decision he may consult the administrative Ministry/Department on such matters as he may consider necessary. If there is any difference of opinion in respect of any such matter between the Inspector General, Central Police Organisation and the Director, Vigilance or the Ministry or the Department concerned, a reference should be made to the Vigilance Commissioner for decision).

(vii) to deal with cases taken to a court, either by way of a writ or suit in matters arising out of disciplinary proceedings.

21. The Chief Vigilance Officer and other Vigilance Officers, besides being the link between the Central Vigilance Commission and the Ministry/Department, should as at present continue to be the Special Assistants assisting the Secretary or the Head of the Department in combating corruption, misconduct and malpractices in the Ministry/Department. The Chief Vigilance Officer shall be responsible for co-ordinating and guiding the activities of other Vigilance Officers in the Attached and Subordinate Offices and other organisations for which his Ministry/Department is responsible to Parliament.

22. Whole time or part time assistance of a Deputy Superintendent of Police from the Central Police Organisation may be made available to the Chief Vigilance Officer(s) of each or a convenient group of Ministries/Departments.

23. A separate Inquiries Wing should be attached to the Directorate of Vigilance consisting of 3 to 5 Commissioners for Departmental Inquiries whose function will be to hold inquiries in all disciplinary proceedings, initiated and conducted by the Director of Vigilance and such other cases as may be entrusted to them for inquiry with the concurrence of the Director.

24. The Directorate of Vigilance should be provided with such staff as may be necessary.

CENTRAL POLICE ORGANISATION

25. The Special Police Establishment may form part of the Central Bureau of Investigation when the Central Bureau of Investigation is set up. A working arrangement may be evolved by the Central Vigilance Commissioner and the Chief of the Central Bureau of Investigation by which the Central Bureau of Investigation would be

obliged to take up all cases referred to it by the Central Vigilance Commission either for secret inquiries or for open investigation. The Delhi Special Police Establishment should consist of 3 wings, namely:

(a) Secret Intelligence;

(b) Investigation;

(c) Prosecution.

The duties of the Secret Intelligence Wing shall be—

(1) to collect information in secret about corruption and other malpractices on the part of public servants;

(2) to assist the Director of General Complaints and Redress in confidential inquiries of any kind.

The duties of the other two wings should continue to be what they are at present.

26. Till such time as the Central Bureau of Investigation is constituted the Special Police Establishment may form part of the Central Vigilance Commission.

(ANNEXURE VI—C)

ANNEXURE II

SCHEME OF CENTRAL VIGILANCE COMMISSION AS APPROVED BY THE GOVERNMENT

The Organisation may be called the "Central Vigilance Commission".

2. The Commission may for the present be attached to the Ministry of Home Affairs.

3. The Central Vigilance Commission will have jurisdiction and powers in respect of matters to which the executive power of the Union extends,

(i) to undertake any inquiry into any transaction in which a public servant is suspected or alleged to have acted for an improper purpose or in a corrupt manner;

(ii) to cause an inquiry or investigation to be made into—

(a) any complaint that a public servant has exercised or refrained from exercising his powers for improper or corrupt purposes;

(b) any complaint of corruption, misconduct, lack of integrity or other kinds of malpractices or misdemeanour on the part of a public servant including members of the All India Services even if such members are for the time being serving in connection with the affairs of a State Government;

(It will be necessary to amend, in consultation with the State Governments, the relevant rules under the All India Services Act in order to bring the members of those Services under the purview of the Commission).

(iii) to call for reports, returns and statements from all Ministries/Departments/undertakings so as to enable it to exercise general check and supervision over the vigilance and anti-corruption work in the Ministry/Department /undertaking;

(iv) to take over under its direct control such complaints, information or cases as it may consider necessary for further action which may be either:

(a) to ask the Central Bureau of Investigation to register a regular case and investigate it, or

(b) to entrust the complaint, information or case for inquiry—

(1) to the Central Bureau of Investigation :

(2) to the Ministry/Department/undertaking concerned;

(v) in cases referred to in paragraph (iv)(b) above, the report of the inquiry will be forwarded to the Commission so that on a consideration of the report and other relevant records, it may advise the concerned Ministry/Department /undertaking as to further action;

(vi) the Central Bureau of Investigation will forward to the Ministry of Home Affairs through the Vigilance Commission the final report in all cases investigated by the Bureau in which it considers that a prosecution should be launched, provided that sanction for such prosecution is required under any law to be issued in the name of the President; and the Bureau will simultaneously send a copy to the Ministry/Department/undertaking concerned for any comments which it may wish to forward to the Commission;

(vii) (a) the Commission will advise the Ministry of Home Affairs after examining the case and considering any comments received from the concerned Ministry/Department/undertaking, whether or not prosecution should be sanctioned. (Orders will, thereafter, be issued by the Ministry of Home Affairs in whom the power to accord such sanction will be vested);

(b) in cases where an authority other than the President is competent to sanction prosecution and the authority does not propose to accord the sanction sought for by the Central Bureau of Investigation the case will be reported to the Vigilance Commission and the authority will take further action after considering the Commission's advice;

(viii) the Commission will have the power to require that the oral inquiry in any departmental proceedings except in petty cases, should be entrusted to one of the Commissioners for Departmental Inquiries. (A suitable number of Commissioners for Departmental Inquiries will be attached to the Central Vigilance Commission);

(ix) the Commission will examine the report of the Commissioner for Departmental Inquiries, which will in all cases

be submitted by the Commissioner for Departmental Inquiries to the Central Vigilance Commission, and the Commission will forward the record of the case to the appropriate disciplinary authority with its advice as to further action;

(x) in any case where it appears that discretionary powers had been exercised for improper or corrupt purposes the Commission will advise the Ministry/Department/undertaking that suitable action may be taken against the public servant concerned; and if it appears that the procedure or practice is such as affords scope or facilities for corruption or misconduct the Commission may advise that such procedure or practice be appropriately changed, or changed in a particular manner;

(xi) the Commission may initiate at such intervals as it considers suitable review of procedures and practices of administration in so far as they relate to maintenance of integrity in administration;

(xii) the Commission may collect, such statistics and other information as may be necessary.

(xiii) the Commission may obtain information about action taken on its recommendations;

(xiv) the Commission will submit an annual report to the Ministry of Home Affairs about its activities drawing particular attention to any recommendation made by it which had not been accepted or acted upon; and the report will be laid by the Ministry of Home Affairs before each House of Parliament.

4. The Central Vigilance Commission will be provided with such staff as may be necessary for the proper discharge of its duties and responsibilities. The staff may include such number of legal advisers and technical officers as may be necessary.

5. The head of the Commission—

(a) may be designated "Central Vigilance Commissioner";

(b) be appointed by the President by warrant under his hand and seal;

(c) be removable in the same manner as the Chairman or Member of the Union Public Service Commission;

(d) may hold office for a term of six years or till he attains the age of 65 whichever is earlier.

(e) on ceasing to hold the office of Central Vigilance Commissioner, be ineligible for any further employment under the Union or State Governments or for holding any political public office;

(f) for the present be of the status of a Secretary to Government but in the exercise of his powers and functions not subordinate to any Ministry/Department;

(g) by convention, be for the present given the same measure of independence and autonomy as the Union Public Service Commission.

Note :—It is considered necessary that the best person available, irrespective of his age, should be appointed the first Vigilance Commissioner and that Government should also have the freedom to determine his tenure. So the conditions laid down in clause (d) of para 5 may not be observed in the first appointment. Even for future appointments, clause (d) may have to be modified after further consideration.

6. The Central Vigilance Commissioner will be responsible for the proper performance of the duties and responsibilities assigned to the Commission and for generally coordinating the work of and advising the Ministries/Departments/undertakings in respect of all matters pertaining to maintenance of integrity in administration.

7. There will be one Chief Vigilance Officer in each Ministry/Department and Vigilance Officers in all subordinate and attached offices, and in all public sector undertakings. The Chief Vigilance Officer may be at least of the rank of a Deputy Secretary and Vigilance Officers at least of a rank of Under Secretary. In the public sector undertakings the Vigilance Officer may be of such rank as may be decided by the head of the undertaking in consultation with the Central Vigilance Commission. The Chief Vigilance Officers, should be appointed in consultation with the Central Vigilance Commission and the Vigilance Officers in subordinate and attached offices should be appointed in consultation with the Chief Vigilance Officer of the Ministry/Department. No person whose appointment as Chief Vigilance Officer is objected to by the Vigilance Commissioner should be so appointed.

8. The Chief Vigilance Officer and other Vigilance Officers, besides being the link between the Central Vigilance Commission and the Ministry/Department, should, as at present, continue to be the special assistants to the Secretary or the Head of Department/undertaking in combating corruption, misconduct and malpractices in the Ministry/Department/undertaking. The Chief Vigilance Officer will be responsible for coordinating and guiding the activities of other Vigilance Officers in the attached and subordinate offices and other organisations for which his Ministry/Department is responsible to Parliament.

9. Whole-time or part-time assistance of a Deputy Superintendent of Police from the Central Bureau of Investigation may be made available to the Chief Vigilance Officer(s) of each or a convenient group of Ministries/Departments/undertakings.

10. The Central Vigilance Commissioner will have the power to assess the work of the Chief Vigilance Officers and Vigilance Officers and the assessment will be recorded in the character rolls of the Officers.

11. The Central Vigilance Commission will take the initiative in prosecuting persons who are found to have made false complaints of corruption or lack of integrity against public servants.

ANNEXURE VII

DIRECTORATE GENERAL, SUPPLIES AND DISPOSALS

We have examined the scope, mode and extent of corruption in the Directorate General of Supplies and Disposals. We also had a discussion with the Director General of Supplies and Disposals and had considered a detailed note prepared in consultation with the Director-General. We were not in a position to make a very thorough and detailed study of the working and procedures and we had necessarily to confine ourselves to certain matters of general importance.

Our assessment as regards the scope and modes of corruption in this Organisation is as stated below:

1. *Registration of firms.*—There is scope for corruption in—

(a) determining whether the particulars furnished and the answers given to the questions in the application forms are definite or evasive or disclose the firms' suitability or unsuitability;

(b) deciding whether an inspection report about the applicant's capacity and suitability should be obtained or not;

(c) the Inspector reporting on the firms' capability and in passing the laboratory tests;

(d) the maintenance of records, particularly;

(i) the list of registered suppliers showing the stores for which each supplier is registered,

(ii) the list of firms whose registration has been refused, who have been dropped or removed,

(iii) the list of firms against whom penal action has been taken and list of firms whose performance has been unsatisfactory. Failure to maintain up-to-date these records is likely to result in orders being placed with unapproved firms or firms whose performance has not been satisfactory or firms which have been removed from the approved list or to which registration is refused or whose proposal for registration had been dropped or firms against which penal action had been taken.

2. *Initiation of Procurement Action:*

(i) An advance intimation of the indent requirements and leakage of indentors' estimated value to a friendly firm, affords them greater opportunity in the preparation of their quotation *vis-a-vis* other parties who will come to know of the requirements as and when the Invitation to Tender is issued. Sale and purchase of this type of information is a possible type of corruption. There have been cases where the contractors have been found to be in possession of complete information about the requirements and value even before the indent was received in the office of the D.G.S. & D. This means that the interested contractors also maintain a close liaison with the indenting departments..

(ii) Avoiding of strict scrutiny of technical particulars. (This may result in favoured treatment to favourite firms).

(ii) Failure to explore all alternative sources of supply.

(iv) In respect of development indents, Government affords certain facilities such as the Government guarantees of an annual minimum off-take for a number of years, fixation of higher prices on the ground of higher cost of production during the development period, assurance of assistance in respect of import licences and allotment of raw materials, relaxation of specifications, assurance of financial assistance and endorsement of time-schedule of production. The powers to decide the extent and nature of facilities to be given affords scope for corruption and other malpractices.

3. *Purchase*

(i) Tender forms are sometimes not made available to all possible competitors, thereby reducing the field of competition and enabling the favourite firms to obtain the contract.

(ii) Advertisement can be dispensed with in case of urgency. The power to decide whether advertisement should be dispensed with gives scope for corruption.

(iii) Inquiries have to be made from all registered suppliers when advertisement is dispensed with. Instances where this has not been done have come to notice. There is scope for corruption at this point.

(iv) No invitation to tender should ordinarily be issued to a firm which is not on the approved list. But such firms

could also be invited to tender for exceptional reasons. The discretion to make a departure from the general rule affords scope for corrupt practices.

(v) Procurement of stores from abroad can be resorted to in cases where the circumstances do not permit indigenous procurement or if the indigenous stores, if available, are not produced in sufficient quantity or are not of acceptable quality. Availability of after sale service facilities is an essential condition for making purchases abroad. The power to decide that circumstances do not permit indigenous procurement of required stores or that the indigenous stores, if available, are not produced in sufficient quantity or of acceptable quality and to procure stores from abroad even where adequate after-sale facilities are not available provide scope for corrupt practices.

4. *Extension of opening date of tenders:*

The tenderers are allowed reasonable time for preparation and submission of their tenders. Sometimes requests for extension of the opening date of tenders are made and such requests are dealt with by purchase officers who may use their discretion in such a way as to accommodate some friendly firms and thereby enable them to participate in the competition or reject the request and throw the firm out of the field. Corruption is possible at this point.

5. *Opening of tenders:*

In cases where the estimated value of the indent is less than Rs. 5,000/- quotations received against invitation to tender are not opened in public. The purchase officer is required to assign a serial number to each of the tenders received, initial each page of the tender, encircle the prices and other important terms, render an account of the covers comprising of prices and Nil quotations received and then hand over the file containing the tenders personally to the Section Officer concerned. The department have stated that the possibility of making any alterations during the interval between the opening of tenders and actual handing over to the section cannot be ruled out altogether. However it appears that the number of such small valued contracts is already not large and is being further reduced with greater emphasis on bulking of indents and issue of consolidated inquiries and that tenders are required to be opened in the presence of tenderers or their representatives and the rates and conditions etc. quoted therein are required to be read out.

6. *Interpolation of tenders:*

A few instances of interpolation in tenders have come to notice. It appears that even in cases where tenders are required to be

opened in the presence of the tenderers or their representatives and the rates quoted and other terms and conditions are required to be read out, these requirements are ignored and the favourite tenderer is allowed to make alterations. It has been reported that suitable preventive steps have been prescribed.

7. *Decision on tenders*:

1. Tender decision or awarding of contracts constitutes a crucial stage. Normally a contract is awarded to the firm quoting the lowest rate, but lowest tender can be ignored—

(a) if the stores offered do not strictly conform to the requisite specification;

(b) if the past performance of the firm in question is unsatisfactory;

(c) if the delivery period offered by the tenderer does not fit in with the one given by the indentor in the indent.

The discretionary power to reject the lowest tender on one or more of the grounds stated above may be abused for improper or corrupt purposes.

2. Minor deviations from the specification stipulated in the invitation to tender can be got rectified but it is difficult to define in precise words the difference between minor and major deviations and the power to decide whether a particular deviation is minor or major gives scope for the exercise of the power for an improper or corrupt purpose.

3. After opening the tenders, negotiations are carried on with the contractors, who quoted higher prices, to persuade them to reduce their quoted prices. There is scope for corruption in selecting the parties for such negotiations and in the actual conduct and conclusion of such negotiation.

4. The power to accept a late tender provides scope for corruption. The scope is greater in cases where an indigenous manufacturing firm is assisted to submit late tenders by keeping the price within the permissible ceiling of price preference shown to such firms. It is stated that the procedure in regard to late tenders has since been considerably tightened and that under the new procedure the admittance, consideration and acceptance of Late Tenders, requires reference to and sanction of the highest authority.

8. *Contracts*: There is scope for corruption in—

(a) deciding that a change proposed to be made in the standard form of contract is not important and has no appreciable financial application;

(b) stipulating price and quality inspection;

(c) entering into a contract with uncertain or indefinite liability or with any condition of an unusual character;

(d) deciding the financial standing and the capability of a firm before acceptance of the tender of that firm;

(e) accepting price variation clauses and escapes over cost of raw material;

(f) reserving the right to examine the books of account of the firm;

(g) accepting tenders of engineering firms which include abnormal conditions and wage-escalator;

(h) determining ceilings where provisional prices are quoted;

(i) certifying the capacity of an unregistered firm and acceptance of the certificate;

(j) determining the last purchase price "in the latest contract of a magnitude similar to the proposed purchase" and entering into contracts at rates higher than the last purchase price;

(k) ignoring the offer of a registered firm on the ground of unsatisfactory performance, in selecting the firms with which contracts are to be entered into;

(l) selecting stores, fixation of time and current capacity of tenderers, location of stock, quantity of stock to be maintained by the contractor at each important centre in India and the time and date of replenishment of stores, the portion of manufacturing capacity to be reserved by a manufacturer for allocation to Government in cases where a rate and running contract is entered into;

(m) determining the quantum of price preference and continuance of price preference;

(n) preparing the list of stores in respect of which price preference is to be given.

9. **Performance of contracts:** There is scope for corruption in—

(a) determining the period within which the contract should be executed;

(b) extending the time of performance;

(c) deciding the necessity for pre-despatch inspection;

(d) sanctioning of modifications in the specifications when firms are reported by the Inspecting Officers to be unable to supply stores strictly in accordance with the samples or specifications;

(e) deciding whether liquidated damages should be imposed and if so, how much;

(f) determining the initial price where the contract was placed on a provisional price;

(g) *in giving effect to price variation clauses*:

Instances of acceptances of false invoices and quotations in respect of the claims for price variation have come to notice;

(h) in making payments; (accumulation of cases for finalisation and delay in making payments compel contractors to adopt unfair and illegal practices);

(i) reporting on performance of contractors;

(j) deciding whether penal action should be taken.

10. *Disposals Wing*:

(i) The possibilities for corrupt practice in the Disposals Wing lie in—

(a) diversion of stores to private hands as a result of ignoring the demands of departments other than those which declare the surplus or the demands of the State Governments;

(b) fixing reserve price;

(c) alteration of reserve price on the ground of discovery of a mistake;

(d) deciding to advertise at lower or higher reserve prices;

(e) fixing guiding price;

(f) reducing guiding price;

(g) acceptance of or approving acceptance of bids below guiding price;

(h) deciding to start negotiations and actual conduct of negotiations;

(i) deciding that—

(i) the goods are obsolete or likely to become so in the near future;

(ii) spare parts are either not available at all or are not available in sufficient quantity;

(iii) the cost of re-conditioning, where it is necessary, will be excessive as compared with the cost of new production. or labour and or capacity is not available for the re-conditioning to be undertaken;

(iv) transport to bring the goods within the reach of prospective purchasers is either not available or the charges would be excessive;

(v) storage facilities are either not available or the charges of storage would be excessive in relation to the cost of new production;

(vi) the material is liable to deteriorate during storage;

(vii) there is no commercial demand for a store in the form in which it is thrown up for disposal and therefore the stores should be reduced to its components.

(ii) An understanding between the bidder and the stock-holder, with a view to cheat the Government, can cause considerable loss to the Government. This may be done by substitution and delivery of the material other than that which was actually auctioned.

(iii) Leakage of reserve guiding price below which the stores cannot be sold in auction can help the firms to a great extent.

(iv) The absence of brisk and competitive bidding at the auction should alert a shrewd officer to detect signs of ring formation. However, he may out of improper or corrupt motives, ignore the obvious indications. It is also possible that the officers in charge of an auction or the auctioneer may enter into some sort of an arrangement with the bidders.

11. **Inspection Wing**: The possibilities of corruption in this Wing are in—

(a) certifying the products and capability after inspecting firms which apply for registration;

(b) advising indentors regarding suitability of particular stores for their requirements;

(c) inspecting raw materials used in the process of production of indigenously manufactured stores;

(d) checking and testing of indigenously produced stores at various stages of manufacture;

(e) inspection of stocks to be supplied against rate and running contracts;

(f) sanctioning "minor modifications" not involving alteration in price;

(g) scrutinising indents, tenders and orders to be placed;

(h) *delaying inspections*:

The firms are not entitled to get payment unless the material is inspected and despatched. Delay in inspection results in blocking up of firms' money as well as storage

space. Delaying inspections may constrain the supplier to adopt unfair and illegal practices. It is also not unlikely that delayed inspection is purchased by suppliers in contracts where time is the essence and thereby avoid the disadvantageous consequences of failure to make supplies in accordance with the time schedule.

(i) *acceptance of stores by the Inspectors:*

The actual inspection of the stores including inspection at different stages or production affords opportunities for corrupt practices. Favours are also shown during inspection by passing and accepting goods which are not strictly in accordance with the specifications laid down in the accepted tenders. At times, *mala fide* intentions are at the root of too rigid inspections and undue insistence on observance of "Quality Control". In respect of rejected goods favours are shown by not applying the penalty clause. Favours are shown and pecuniary advantage is caused to suppliers by not strictly applying all the terms of the contract or by giving wrong certificates about completion of inspection or actual despatch of goods.

(j) *fixation of reduction in price for non-supply of stores conforming to specification:*

If the material tendered by the firm does not conform to specification, the Inspector may recommend the quantum of reduction on account of deviation if specification falls within the purview of Inspection Wing and offers scope for malpractices.

(k) *contractor's manipulation to get imported stores rejected:*

The acute shortage of foreign exchange and the consequential difficulty in issue of import licences is well-known. Some unscrupulous firms are, therefore, keen to get the imported material offered for inspection rejected by the Inspectorate so that the same can be retained by them for their use. This situation is capable of being exploited by the inspecting officer for personal gain.

(l) *giving technical advice on tenders:*

Normally none of the firms would be able to offer stores in respect of plant and machinery items, which would be in full conformity with the indent specification. In such cases the Inspection Wing scrutinises the offers for choosing an offer nearest to the requisite specification. In such cases, it may be possible for the officer concerned to favour

the offer of any particular firm against those of the others highlighting the advantages of the offer recommended by him.

The Committee had provisionally formulated certain recommendations and after obtaining the comments of the Directorate considered the comments and the related aspects of the problem. We fully recognise the necessity of the Directorate General, Supplies & Disposals to live upto its motto of delivering the goods. This necessarily means that the discretionery powers of the officers in this organisation cannot be radically reduced without affecting the efficiency of the organisation. We have therefore framed our recommendations keeping this consideration in view. Our recommendations are:

(1) It is desirable to afford an opportunity for the representatives of Chambers of Commerce and of reputed trade journals to be present at the time of opening tenders.

(2) Where tenders are less than three in number, or no representatives are present, tenders should be opened in the presence of more than one officer.

(3) The tenderers should be asked to intimate even at the time of submission of their tenders the names of the representatives who would be present at the time tenders are opened. However, if a tenderer fails to do so and submits the name later, permission need not be refused. The Vigilance Officer should be informed about such subsequent applications.

(4) When the tenders are opened and read out, conditions, if any, stipulated by tenderers should also be read out.

(5) Tender forms should be so devised that the quotation regarding particular items and the price quoted in respect thereof may be easily detachable and pasted on the tabular statement. This may be done either by asking for submission of tenders in duplicate or triplicate or by the tender forms having counterfoils of the appropriate columns, which could be detached and pasted to the tabular statement. In any case, comparative tabular statements should be prepared on the spot immediately after opening of the tenders.

(6) The processing of the tender should be done by an officer other than the one who opened it.

(7) Officers of the Directorate General, Supplies and Disposals should be strictly prohibited from meeting business men or

the tenderers, or their representatives outside office premises. Whenever a meeting takes place either in office or at any place outside the office, the officer concerned should immediately record a note on the file or a note for being kept on the file. He should also maintain a diary showing the names of the persons who meet him, and the subject of the discussion and other relevant particulars. This diary should be inspected by superior officers periodically.

(8) A Cell should be established both at Headquarters and at regional offices consisting of subject-matter specialists, technical and accounts officers for the purpose of conducting a continuous and concurrent audit of performance.

(9) A categorisation of the different functions of the organisations should be made on the basis of subjects that are better left to be decided by individual officers, so that there is no scope for blurring of responsibility in respect of such matters, and subjects that are better decided by a committee. In respect of the former, a system of review of the decisions taken and the discretion exercised should be instituted, the review being conducted by superior officers. The actual categorisation should be made by the head of the organisation.

(10) Suitable arrangements may be made for random check of—

(i) reports regarding capacity of firms applying for registration;

(ii) reports about suitability of raw material used and manufacturing process in respect of stores obtained underrate or running contracts or stores in respect of which pre-delivery inspection is dispensed with;

(iii) stores passed or rejected after inspection;

(iv) performance of firms selected for encouragement in respect of development indents and utilisation of facilities given;

(v) stores reported as surplus;

(vi) supervision of auctions for disposal of surplus stores and delivery thereof to the auction purchaser.

The Head of the organisation should keep with him confidentially a list of officers of undoubted integrity and he may entrust the random check in respect of matters referred to above to officers from out of that list selected for the occasion.

(11) An officer of at least the rank of a Deputy Secretary should be the Chief Vigilance Officer of this organisation. He should be posted in the Directorate General of Supplies and Disposals. The duties and responsibilities of the Chief Vigilance Officer should be such as may be prescribed by the Head of the Organisation for the purposes of prevention of corruption, detection of mal-practices and maintenance of integrity. Vigilance Officers should also be appointed in the Regional offices and in the Supply Missions stationed abroad.

(12) There should be close cooperation between the D.G.S. & D. and the Special Police Establishment. There should be a regular system of exchange of information regarding—

(a) big transactions of a value of cost less than Rs. five lakhs as soon as a decision is taken to initiate action for purchase or disposal;

(b) all negotiated contracts of a value of Rs. 1 lakh as soon as a decision to enter into negotiations is taken.

The Special Police Establishment should also be furnished with copies of the reports made by the officer or the team entrusted with random checking as recommended in para (9) above.

(13) Suitable arrangements should be made to control and regulate entry of persons having or likely to have official dealings with the organisation.

(14) A public relations officer may be appointed to deal with routine public inquiries and of inquiring representatives of firms in regard to business of this organisation, so that there may be no 'sale of information'.

(15) The D.G.S. & D., the heads of the Regional offices, the Chief Vigilance Officer should make suitable arrangements to meet representatives of the Trade Organisations, to ascertain the difficulties of the suppliers and take steps to remove the same. These officers should also set apart a specific time on any specified day during which any person having any difficulty or complaint may meet them openly and state his difficulty or complaint for redress.

(16) It should also be examined whether it would be feasible to associate in an advisory capacity representatives of the Trade Associations in the work of this organisation and if so in what matters.

(17) The D.G.S. & D., and the Chief Vigilance Officer should take suitable steps to ensure that the work in the organisation particularly in the finalisation wing is not delayed.

We hope that the Central Vigilance Commission will undertake a more detailed study of the working and procedures of this organisation and suggest measures necessary to prevent corruption in this organisation.

ANNEXURE VIII

DIRECTORATE GENERAL OF TECHNICAL DEVELOPMENT (FORMERLY DEVELOPMENT WING)

The Development Wing was set up in the year 1951. It is a technical organisation and its primary function is to assist and advise in the formulation of industrial plans and in securing regulated development of industries in the private sector.

The main functions of the Development Wing are :—

(i) Assisting in the planning and development of industries to secure a well balanced and properly coordinated pattern of industrial economy with a view to:

(a) securing increased production of those articles and commodities, the present production of which is insufficient to meet the country's demand;

(b) diversifying the production activities to meet the country's requirements in various sectors;

(c) ensuring improvement in the quality of products and the maximum economy in their cost of production;

(d) arranging for supply of technical know-how, and foreign collaboration, where necessary, taking advantage of the facilities offered by the Colombo Plan, T.C.M. etc.

(ii) Scrutiny of applications, received under the Industries (Development and Regulation) Act, 1951 for establishing new industrial units or for effecting substantial expansion of existing production units and the preparation of summaries for consideration of the Licensing Committee.

(iii) Assistance to industries in the procurement of raw materials, essential building materials like steel and cement, capital goods, fuel, electric power, transport facilities such as railway wagons and tank-cars etc.

(iv) Assisting various Government organisations like Indusdustrial Finance Corporation, National Industrial Development Corporation etc. in giving loans to the industries and in scrutinising the applications received for loans from the industrial units.

(v) Recommendations regarding:

(a) formulation of import and export policies;

(b) applications for licences for import of industrial raw materials, capital goods etc.;

(c) Tariff protection;

(d) regulation of import and export duties and quotas;

(e) training of technical personnel overseas etc.;

(f) formation of targets for various industries for Five-Year Plans together with submitting notes on the latest position of various industries.

(vi) Allocation of:

(a) pig iron, coal and coke to all central list foundaries;

(b) steel for private Industrial Development (PID) and IMP quotas;

(c) Cement for Private Industrial Development (PID) quotas.

(vii) Issue of:

(a) Licences for the import and export of machine tools;

(b) certificates of exemption from payment of customs duty on scientific equipment and appliances not manufactured in India;

(c) steel quota certificates for industrial units in the private sector.

(viii) Investigation and development of indigenous sources of supply of stores, so far imported either wholly or even partially from abroad.

(ix) Promotion of exports of engineering and non-engineering goods.

(x) Compilation of industrial data:

(a) Collection and compilation of industrial data relating to installed capacity, actual production, employment position, stocks, prices etc.;

(b) Supply of factual and other information to the Ministry of Commerce and Industry on various other matters like G.A.T.T. items, tariff bills, Parliament Questions, periodical (annual, quarterly and monthly) reports on industrial development etc.

(xi) Working of the Non-Ferrous Metals Control Order, 1958.

(xii) Guiding the work of the Development Councils formulated under the Industries (Development and Regulation) Act and performing the work of the Secretariats of various Development Councils.

The field of activity of the Development Wing is wide. The scope for patronage is vast, particularly in relation to the following:—

(i) Scrutiny of applications, received under the Industries (Development and Regulation) Act, 1951 for establishing new industrial units or for effecting substantial expansion in existing production units and the preparation of summaries for consideration of the Licensing Committee.

(ii) Assistance to industries in the procurement of raw materials, essential building materials like steel and cement, capital goods, fuel, electric power, transport facilities such as railway wagons and tank-cars etc.

(iii) Assisting various Government organisations like Industrial Finance Corporation, National Industrial Development Corporation, etc. in giving loans to the industries and in scrutinising the applications received for loans from the industrial units.

(iv) applications for licences for import of industrial raw materials, capital goods etc.

(v) Tariff protection.

(vi) Allocation of:

(a) pig iron, coal and coke to all central list foundries;

(b) steel for Private Industrial Development (PID) and I.M.P. quotas;

(c) cement for Private Industrial Development (P.I.D.) quotas.

(vii) Issue of:

(a) Licences for the import and export of machine tools;

(b) certificates of exemption from payment of customs duty on scientific equipment and appliances not manufactured in India;

(c) steel quota certificates for industrial units in the private sector.

(viii) Investigation and development of indigenous sources of supply of stores, so far imported either wholly or even partially from abroad.

A measure of the Development Wing's activities may be had from the following:—

	Number of schemes submitted by entrepreneurs scrutinised	No. of licences issued by the Wing as licensing authority for machine tools	No. of licences for import & export from actual users scrutinised and recommended for issue of licences	Value of applications cleared for import of capital goods. (in crores of Rupees)
1	2	3	4	5
1959-60 . .	1,987	4,177	86,572	96·8
1960-61 . .	2,449	4,528	82,394	152·80
1961-62 . .	2,420	4,184	84,072	160

We consider that there is not much scope for malpractices in matters relating to planning industrial targets and formulation of import polices as the decisions in respect of these matters are taken at a very high level. However, it has to be noted that the advice of the Development Wing is given considerable weight. It will be necessary to exclude the possibility of successful lobbying and other types of "persuasion, pressure and influence". The industries in the country could be broadly divided into two categories, namely—

(1) Industries with large capital structure involving import of plant and machinery of considerable value and raw materials in large quantity. Such industries are usually concentrated in a few hands and it appears they are called "octopoid industries."

(2) Industries concerned with the production of consumer goods. Such industries are run by companies, public or private, or individuals and is not so concentrated as the industries of the first category.

The industries of the first type would, for various reasons, be interested in maintaining scarcity conditions. Lobbying by such interests to keep the targets low cannot be excluded. In regard to the second category of cases, it may be stated that, since there are too large a number of persons interested in such industries, concerted pressure and influence from individual sources is practically neglible, though perhaps not non-existent. The real difficulty in fixing targets

for the second category of industries is that reliable data of production and consumption may not be available and, therefore, there would be considerable elbowroom for the Technical Adviser who formulates the estimates. On the extent of the ability of such industries to act in concert would depend the scope and intensity of lobbying.

The main responsibility for scrutiny of industrial schemes which require a licence under the Industries (Development and Regulation) Act falls on the Development Wing. The present practice is that applications are submitted in the prescribed forms. (Form 'D' for new units, Form 'E' for substantial expansion and manufacture of new articles and Form 'EE' for regularisation under the Industrial (Regulation and Development) Act. There is no time limit prescribed for making applications and they are considered as and when received. Technical advice is obtained from the Development Wing, the Director of Industries of the States in which the unit is proposed to be located and through the Textile and Jute Commissioners if the application relates to textiles or jute. The principal role is that of the Development Wing. The particulars furnished in the applications may in fact be inadequate or may be considered to be inadequate by the Development Officer concerned who in either case may call for additional information from the party or ask the applicant or his representative to have personal discussion. It is possible that the Development Officer or other officials concerned could make one applicant helpless by asking for impossible information and also help another by passing on to him particulars which will make his proposals the best of the lot. The case of the favoured applicant may be processed quickly while the less fortunate applicants continue to be pressed for additional information till finally they are told that enough capacity has been licenced.

The Development Wing also tenders advice to the applicant regarding location of the undertaking, diversification of the range types of products taking into account the availability of raw materials, choice of manufacturing process, economic size of the operations and the importance of the items in the light of plan priorities. While it may not be practicable to dispense altogether with the process of asking for additional information or holding personal discussions notice has to be taken of the fact that the process provides for corruption and other types of malpractices. Some of these are—

(a) the applicant or his representative will come into close personal contact with the officer dealing with the matter and this will provide an opportunity, at least in some cases, for other irrelevant and improper factors to come into play;

(b) there may be more than one applicant seeking a license for the same item. The claims of the different applicants may be more or less well balanced. In such an event, choice of some applicants to the exclusion of others will be largely conditioned by the recommendations of the Development Wing. It is necessary to exclude the possibility of unfair preference;

(c) applications for licenses under the Industrial (Development and Regulation) Act, 1951, are made at any time during a Plan period. Thus there is a constant flow of such applications. Persons whose applications have once been rejected are not precluded from making fresh applications in the expectation that at some time or other they will succeed if the officers concerned are suitably "persuaded". The continuous flow of applications also provides scope for malpractices.

After the approval of the schemes by the licensing Committee and grant of license to the parties concerned, the Development Wing is also required to keep a watch to see whether the licensed schemes are progressing according to the terms and conditions laid down in the licenses. The task of watching the progress is continued till the schemes are completed and the units are in the regular manufacture of the licensed items. The licensed undertakings are required to submit half-yearly returns and other special returns indicated in the licence. These reports are carefully scrutinised and the position showing the different stages of the implementation of the schemes is reported to the Ministry of Commerce and Industry, Planning Commission and State Directorates of Industries. In cases of genuine difficulties experienced by the entrepreneurs in the implementation of their sanctioned schemes, necessary assistance is given. But in cases where no progress has been made in the implementation of the schemes or where insufficient progress has been made despite all possible assistance necessary action for the revocation of such licensed schemes is initiated.

In order to enable the Development Wing to keep a watch over progress the licensee is required to report every six months the progress made by him. It would appear that it was originally intended that there should be a field verification of the progress reports. But for some reason such field verification is not made. The absence of field verification may give rise to various unfair practices, some of which are—

(a) the progress report may not state the whole truth;

(b) report regarding utilisation of raw materials, particularly those that were imported may not be correct and the imported raw materials may be diverted for other purposes;

(c) the licensee instead of setting up a factory may utilise the services of sub-contractors for manufacturing the component parts, the licensee himself doing only the assembling.

To the extent that such practices exist—it cannot be said that they do not exist—the purpose of licensing industries is defeated and lack of field verification will inevitably contribute to connivance at such malpractices unconsciously though. But, there is the danger that if such verifications are made by junior officers, they may not be able to withstand the persuasion and temptations offered by the licensees particularly if they are influential. We recommend that a system of field verification by Senior Officers of integrity, selected for the occasion from out of a confidential panel to be maintained by the Secretary to the Department should be organised. An officer of the Special Police Establishment should always be associated in such inspections.

Considering all the aspects we formulated certain tentative proposals and obtained the comments of the Department in the light of which we have formulated the following recommendations:

(1) The existing forms for applications may be reviewed in order to make them more comprehensive, and provide as much relevant information as possible. The necessity for calling for additional information should be reduced to a minimum.

(2) At present, applications for licences are being made and disposed of continuously. It is true that entrepreneurs should be free to make such applications at a time most suitable to them, after taking into consideration the possibilities of foreign collaboration, technical know-how etc. At the same time, procedures should be evolved and publicity ensured so that among competing applicants licences may be issued solely on the basis of merit.

(3) It is essential that all the applications received should be scrutinized properly. The appointment of a Scrutiny Committee may be preferable to the present practice of approval and endorsement by individual officers. It is noted that if applications are rejected, the aggrieved party can make an appeal against the decision and such appeals are often referred to the Licensing Committee for review. We further understand that there is a Reviewing Sub-

Committee of the Central Advisory Council of Industries to review all licences issued, refused or revoked. Simplification and reduction of the area of discretion in these matters should be explored continuously.

(4) The Development Wing should confine itself to advising on the technical aspects of schemes. It should be relieved of the duty of preparing summaries etc., advising on locating, assisting the licensees to obtain import licences for raw materials, revalidation or extension of the period of validity of import licences, clearance of applications for licences for import of capital goods, etc. These should be disposed of by the appropriate officers of the Commerce Ministry.

(5) Applications for import licences come for clearance to the Development Wing that the machinery or material applied for is not indigenously produced. We do not think this procedure is necessary or desirable. The Development Wing should be required to prepare a periodical statement of items to be imported. Such statements should be forwarded to the licencing authorities who should proceed to dispose of applications without any further reference to the Development Wing.

(6) Whenever officers of the Development Wing have to come into personal contact with the applicants for licences for industries or for import licences, they should make a record of discussions and keep them in the relevant files.

(7) Additional information should be called for only after an officer superior to the officer calling for such information has seen the case and approved the type of additional information to be obtained.

(8) Arrangements should be made to make a systematic review of cases in which assistance was asked for by an industry and granted or refused. This review should be made by the Chief Vigilance Officer of the Department and the results brought to the notice of the Central Vigilance Commissioner.

(9) The licensee should be required to adhere to a time schedule for fulfilling the conditions of the licence. Unless the entrepreneur can show that the implementation of the scheme was delayed by causes beyond his control, prompt steps

should be taken for cancellation of the licences. All extensions other than the first should go before a high level committee, the decisions of which should be final.

(10) There is considerable dissatisfaction with the present arrangements relating to the distribution of foreign exchange. It is recognised that it is a complicated matter and the manner of distribution may have to be different for different industries. The general principle to be followed should be that the total foreign exchange available for a particular industry and the manner in which it should be distributed for legitimate applicants therein should be decided as far as possible in consultation with the representative organisations of that industry.

(11) Wherever possible a system of rotation of Development Officers should be evolved. For this purpose, the industries may have to be grouped.

(12) The method adopted in the Directorate General of Supplies and Disposals of entrusting an O.&M. Unit to make a *post facto* scrutiny of files after disposal to find out the nature of mistakes or irregularities etc. that have occurred, and the results of such scrutiny should be published, may be adopted in all other departments.

ANNEXURE IX

IMPORT & EXPORT CONTROL ORGANISATION

Import Control was first introduced in May 1940 as a war-time measure under the Defence of India Rules. As its primary object was to conserve shipping space, it was limited only to a few commodities; but with the progressive increase of foreign exchange difficulties and in the interest of economic development of the country, it became necessary to extend its scope. The control is now exercised under the Imports & Exports (Control) Act 1947 and the orders issued thereunder. This Act is at present valid upto 31st March 1966.

2. The organisation of the Chief Controller of Imports and Exports was set up in August 1941 with its headquarters at New Delhi. Subsequently a number of regional offices were established.

3. The main functions of the Import & Export Trade Control Organisation are:—

(a) to exercise control over the Import & Export of goods and to formulate the policy and procedure for such control;

(b) to issue licences for the Import & Export of goods;

(c) to investigate into the violation of Imports & Exports Trade Control Regulations and to impose punishments for such violations in terms of the Imports (Control) Order 1955 and Exports (Control) Order 1962; and

(d) to maintain statistics of India's Imports & Export Trade.

4. Import licences were granted in the past to newcomers, actual users, established importers and on *ad hoc* basis. At present, the major categories to whom licences are issued are actual users, established importers and exporters under the Export Promotion Scheme.

5. Licensing is the most voluminous part of work handled by the organisation. The powers to grant licences has been given to various authorities the lowest of whom is the Assistant Collector of

Imports who is of the grade of a Section Officer. A measure of the volume of this work may be had from the following figures:—

Year	Number	Value (in lakhs)
1-4-61 to 31-3-62	3,35,013	85,716
1-4-62 to 31-3-63	2,07,794	94,979

Till 1962 licensing was done once in six months. On an average, 1,60,927 licences of the value of Rs. 413.03 crores on the average were issued during each half year. Since 1962 licensing is done on an yearly basis. Import licences when sold in the market fetch 75 per cent. to 500 per cent. more of their face value depending upon the commodity. This gives a measure of the profit that could be made.

6. The first essential step for obtaining an import licence is the securing of a quota certificate or essentiality certificate. A detailed procedure has been prescribed for obtaining either of these certificates. The most important type of malpractice found in regard to obtaining quota certificates is that of production and use of false documents relating to past imports. In cases where importers are not able to submit the required evidence for proving past imports secondary evidence supported by the affidavit of the applicant is admissible. There have been instances of production and acceptance of false secondary evidence. Instances have come to notice where separate quota certificates were issued in favour of the same applicant in respect of the same basic year. Determination of the various questions of facts which will disqualify an applicant for the grant of a quota certificate also gives considerable scope for discretion. An instance had come to notice where a Joint Chief Controller had in spite of advice to the contrary taken into account certain alleged imports for which there was no reliable supporting evidence.

Essentiality certificates are granted by the Director of Industries of States and certain other prescribed certifying authorities. But we have no reason to believe that there is no corruption involved at that end.

7. Corruption in this branch of Government's activities arises from:

(i) Ante-dating belated applications by the staff at the time of receipt, to cover delay in submission and facilitate their admission.

(ii) (a) Undue delay or unusual hurry on the part of staff in the despatch/delivery of licences/Quota Certificates.

(b) Delivery of licences/Quota Certificate to parties personally or outside office premises by the Despatch Clerk.

(c) Despatch of envelopes with blank papers in lieu of licences/Quota Certificates.

(iii) (a) Issue of licences/Quota Certificates in the names of fictitious concerns, and

(b) Issue of licences/Quota Certificates on the basis of forged or bogus past import documents, in collaboration with the staff.

(iv) Issue of licences to Actual Users on forged Essentiality Certificates and without proper scrutiny of the documents.

(v) Issue of licences to prospective exporters under the Export Promotion Scheme on the basis of false or forged orders from foreign suppliers.

(vi) The Licensing Authority is responsible for verification of particulars or of copies of documents furnished with the applications. There have been cases where out of negligence or out of improper motives such verification was not made strictly thereby facilitating frauds.

(vii) Theft of blank licences/Quota Certificates books by the office staff and supply/sale of the same to parties for valuable consideration.

(viii) Theft of issued licences by staff at the time of despatch or when returned by parties for revalidation, amendment, etc., and sale to other parties.

(ix) Tampering with official communications issued to or received from other offices in transit by the staff, with a view to prevent detection of malpractices.

(x) Disclosure of secret details of policy and tampering with the information to be published by the Statistical Division in the Weekly Bulletins.

(xi) Recommendation for issue of Export Promotion licences for subsidiary articles which are not required.

(xii) Applying for licences on the basis of forged essentiality certificates of the certifying authorities concerned or certificates obtained by misrepresentation.

(xiii) Selling of goods imported against Actual Users licences instead of utilising the same in the industry.

(xiv) Applying for licences on the basis of forged quota certificates or obtaining such certificates by false or forged documents of past imports or by misrepresentation.

(xv) Applying for licences even after changes in the constitution or ownership of the importer's business, by concealing such changes, and without obtaining the required approval of the I.T.C. authorities to the transfer of quotas in the event of such changes by concealing changes in the ownership or constitution of business.

(xvi) Applying for licences on the basis of invalid Income-tax verification number or such number having been obtained on production of false or forged Income-tax verification certificates.

(xvii) Applying for licences on basis of forged or fabricated recommendation or order purported to have been issued by the Chief Controller of Imports & Exports to the regional licensing authority.

(xviii) Applying for licences on the basis of forged or fabricated orders purported to have been placed by a Government Department for the supply of goods sought to be imported.

(xix) Obtaining clearance of goods from the Customs by producing false or fabricated recommendation purported to have been issued by the ITC authorities.

(xx) Trafficking in licences.

(xxi) Selling of goods before their clearance through the customs and committing breach of other conditions of licences.

(xxii) Over-invoicing and under-invoicing of goods at the time of import and export or applying for licences by misdeclaration of value, sort, quality or quantity or description of goods.

(xxiii) Pledging of goods without the permission of the licensing authority.

(xxiv) Applying for duplicate copy of licences by concealment of facts.

(xxv) Making unauthorised changes or interpolations in the licences by means of chemical washing of the Original entries in the licences or in the lists attached to licences.

(xxvi) Importing goods against bogus licence.

(xxvii) Applying for licences in the name of fictitious firm.

(xxviii) Soliciting of licences (This is said to be a well organised trade).

(xxix) Smuggling of goods.

8. It was impressed upon us at Bombay and Calcutta that non-association of Trade Associations in matters relating to grant of licences is one of the factors that encourage growth of corruption in this organisation. We have dealt with this question in para. 6.4 of Section 6.

9. We were told that corruption and lack of integrity are rampant in transactions relating to obtaining of quota certificates, essentiality certificates, licences and their utilisation. We were also told that import licences granted as export incentives are transferable and this causes serious damage both to the domestic market and to our foreign exchange resources. It was also stated that licenses for import of goods which are in no way connected with the goods exported by an exporter are granted as indirect subsidy to recoup losses in exports. It was suggested to us at Bombay that export incentives should be given only in the shape of cash and not as import licences as these licences are a fruitful source of accumulating unaccounted money and evasion of taxes. We would suggest that this suggestion may be examined.

10. Considering all the aspects of the problem we make the following recommendations:

(1) The Inspection Unit which was created in 1956 and which ceased functioning in 1962 should be revived and strengthened.

(2) The Investigation and Vigilance Unit set up in 1957 should be strengthened by adding thereto officers from the S.P.E. and Customs. This unit should have branches at Bombay, Calcutta and Madras. This unit should be entrusted with the responsibility of making random sample verification of applications for essentiality/quota certificates and licences, on the spot, inquiries into allegations of misuse of licences or goods, inspection of new industrial units to ensure proper utilisation of imported goods, random check of the genuineness of persons who have obtained licences and with such other functions as may be considered necessary. Specified categories of personnel of this unit should have powers of entry into premises, search and seizure.

(3) Delay in the disposal of applications for licences provides considerable scope for corruption in this organisation. The Import

and Export Policy Committee (The Mudaliar Committee) made the following recommendations on this question:

> "Delays in the Import Control Organisation can have far-reaching consequences. Production gets retarded for want of raw materials and equipment sought to be imported; business gets dislocated and prices shoot up. Cases have come to light where the importer has had to pay heavy wharfage and demurrage to the Port Trust authorities, because, for instance, some necessary amendment to the import licence could not be made by the licensing authority in time. Sometimes, contracts get cancelled or prices are raised substantially by the foreign suppliers, while the officials make up their minds to issue licence. In net effect, delays hamper industry and trade and cost the country dearly in foreign exchange. This aspect of the matter should be impressed on all concerned. As the fortunes of trade depend so much on prompt action, it is apt to become impatient of any delays on the part of the Import Control Organisation, and complaints in this behalf have been voiced at every centre we visited.
>
> We also got the feeling that the Chief Controller of Imports and Exports is not adequately equipped to meet any sudden on-rush of work emanating from any particular cause, such as the signing of a new trade agreement which may tend to trigger off a series of new problems in the initial stages. The Chief Controller of Imports and Exports should have some kind of a cushion to be able to cope with situations of this kind, without getting dislocated. The best course perhaps would be to place at his disposal a small 'Squad' under a Controller, which may be used to bulldoze any pendencies or arrears in whatever section they may be".

The recommendation of the said Committee for creation of a small squad to liquidate pendencies, does not appear to have been implemented so far. We recommend that the recommendation may be implemented.

(4) According to the present procedure, the first appeal against the decision of a licensing authority lies to the head of the licensing office concerned whether he is of the status of a Joint Chief Controller or Deputy Chief Controller of Imports & Exports. If any party is not satisfied with the decision on his first appeal, he can prefer a second appeal to the Chief Controller of Imports & Exports. The first appeals are considered by separate officers meant for this purpose in the I.T.C. Offices. For second appeals, there is a separate

Appeals Division in the C.C.I's Office. It is also understood that there is an Appeal Sub-Committee in the C.C.I's Office, to scrutinise appeals of complicated nature. The appellants are heard upon request. We recommend that in every appeal, first or second, the appellants should be given a hearing by an appropriate authority and reasons for the rejection or acceptance of the appeal should be recorded and communicated to the appellant. Time-limits should be set for disposal of appeals.

(5) It will be of advantage to maintain a suspect list of the staff of the I. & E.T.C. Organisation. The names of only such persons should be included in this list whose integrity the head of department/office has strong reasons to suspect, and for want of positive proof no action could be taken against them.

(6) As a rule no person should be allowed to remain for more than three years in an office dealing with trade and industry. At present, the staff on the non-C.S.S. side in the I. & E.T.C. Organisation is not liable for transfer to other departments with the result that every person takes roots where he is working. There should be periodical transfer of staff amongst the various offices like the I. & E.T.C. Organisation, the Textile Commissioner, the DC (SSI) the Directorate of Export Promotion, the Director General of Commercial Intelligence, the Jute Commisioner, etc. We further recommend that the procedures of recruitment, promotion, etc. be reviewed and if possible the personnel may be absorbed in one of the existing regularly constituted cadres.

(7) The Customs are also an important agency for detecting violation of Import & Export Control regulations. Generally, such offences are dealt with by the Customs in their discretion and with their own machinery. Some cases of unauthorised importation are discussed at the joint meetings of the Customs and the I.T.C. authorities. But certain offences coming to the notice of the Customs like the offences of over-invoicing and under-invoicing of goods require careful investigation and extensive probe. We were given to understand that there is a regular racket with a wide net-work of agencies indulging in under-invoicing and over-invoicing. We recommend that, as soon as a case of this nature is detected by the Customs, they should invariably bring the Special Police Establishment into the picture. This recommendation applies also to cases detected by the Enforcement Directorate of the Ministry of Finance which deals with breaches of Foreign Exchange Regulations.

(8) The duties of receipt and despatch in the Routine & Issue Section should be assigned to clerks of proved honesty to be specified by name, so that those responsible for receipt and despatch of

applications/licences may be clearly fixed. A Controller should supervise the work of these clerks and he should be responsible for the proper receipt and despatch of applications/licences.

(9) Action for the issue of certificates/licences should be taken in order of priority of receipt of the applications and exceptions should not be allowed except under the express orders of a responsible officer.

(10) Time-schedules may be laid down for dealing with applications for import licences and if at any stage the file is held up for a longer period than laid down in the schedule the Officer concerned should send it to the next higher officer with his explanation for delay.

(11) Whenever any application is received from a new party the particulars or copies of documents furnished by them with their applications should invariably be verified and the existence or otherwise of those parties should be established before the issue of certificate/licence. A certificate to this effect should be furnished on the file.

(12) When any firm applies for fixation of their quota it should be incumbent on the dealing Assistant or Controller to verify the documents enclosed with the application for fixation of quota. For this purpose a weekly list from the Directors of Industries and other certifying authorities may be called for to enable the Licensing Authority to check up the correctness of the certificates etc. The quota certificates should be issued only when the authenticity of the documents is confirmed. Likewise in the case of Actual Users the Essentiality Certificates enclosed with the applications of the firm should be verified before the issue of the import licence.

(13) A detailed test check should be made by the Assistant Controller/Controller in 10 per cent of the cases to ensure whether the note of scrutiny of documents put up by the Licensing Assistant is factually correct.

(14) The Officer issuing the import licences should give a certificate to the effect that all the necessary verifications for issuing the licence or Quota Certificates have been done and found in order. They should also certify that the licence or the Quota Certificate has been issued after due verification.

(15) *Ad hoc* licensing as allowed by the General Licensing Instructions which are of confidential nature, also creates scope for favouritism and corruption at higher levels. Instances have come to notice wherein parties resorted to bribery and corruption to secure *ad hoc* licences of heavy profit-bearing items. Frauds and corrupt practices in *ad hoc* licensing can be prevented to some

extent by entrusting the responsibility for grant of *ad hoc* licenses to officers of the grade of Deputy Secretaries. These officers should be men of proved integrity. Full publicity should be given to all *ad hoc* licenses granted in the Weekly Bulletins and Trade Journals.

(16) All Licences/Quota Certificates received back from parties for revalidation, amendment etc. should be dealt with by an Assistant Controller of proved honesty and integrity.

(17) A random check of applications for licenses and licenses issued should be made through the Delhi Special Police Establishment.

(18) Instances have come to notice where import of material to be used in the manufacture of exportable goods have been sold for huge profit. All such offences should be punishable with imprisonment of at least 3 years and a fine which will be at least twice the market price of the imported goods. Random check through the Delhi Special Police Establishment would act as a deterrent for habitual racketeers who indulge in this type of malpractice.

(19) A random physical inspection of goods imported or exported with the co-operation of the customs authorities should also be carried out to detect over-invoicing and under-invoicing, fraudulent claims for various incentives given under the Export Promotion Scheme.

(20) Enquiry Offices should be opened at each of the office of Joint Chief Controller of Imports and Exports and it should be ensured that no person sees anyone in the office without signing the register to be kept for the purpose.

(21) A Special Officer of a suitable rank should be posted in each of the Licensing Offices so that any person with a complaint or difficulty may approach this officer for redress.

ANNEXURE X

CENTRAL PUBLIC WORKS DEPARTMENT

We have examined the extent, scope and modes of corruption in the Central Public Works Department.

The Central Public Works Department is responsible for the execution and maintenance of works of all classes of all civil departments of the Government of India, of the Union Territories, New Delhi Municipal Committee and the Delhi Water and Sewage Disposal Undertaking. All military works are executed by the Military Engineering Service, and Railway works by the Railways themselves. Works on national highways are constructed by the State Public Works Departments, and the Central Public Works Department take up such works only where the State Public Works Departments do not have the capacity to take up particular works. Works of multi-purpose river valley projects are executed by State Public Works Departments, or by separately constituted autonomous authorities like the Damodar Valley Corporation. The Central Public Works Department also undertake execution of non-Government deposit works.

The total strength of the personnel employed in the Central Public Works Department is 21,164. The break-up is as follows:—

(*a*) Gazetted	863
(*b*) Non-Gazetted	9,273
(*c*) Work charged Contingency etc. Staff	11,028
TOTAL	21,164

The problem of combating corruption in the Public Works Departments was the subject of study of a Sub-Committee of the seminar on River Valley Projects, held in July, 1954 and of a departmental committee set up by the Ministry of Works, Housing and Supply as it then was. We have taken into account the recommendations made by the Committees and also examined some witnesses. We did not, however, consider it necessary to call and examine the Central Public Works Department officials as we had considerable material on the subject.

We were told at Bombay and Calcutta that the root causes of corruption in the Public Works Department are attributable to:—

(i) The terms of the contract vest in the supervisory staff's final powers of interpretation of various clauses of the

contract, specifications and quality of work. Such uncontrolled powers give wide scope to the supervisory staff at different levels to harass the contractor, and the contractor always goes in fear of such harassment.

(ii) There is an elaborate complement of junior staff consisting of Assistant Engineers, Sub-Divisional Officers, Overseers and innumerable Work Mistries.

(iii) The specifications in most cases tend to approach almost ideal levels, overlooking local conditions and practical requirements.

(iv) The system of enlistment is defective and enables undesirable persons to get enlisted as contractors. These persons resort to deliberate under-cutting and later attempt to make good the loss by sub-standard work. It was also represented to us that the Builders Association of India has been representing to the Government of India in all these matters. We find that recently a Committee has gone into the question of contract forms. But we find that even the revised form contains the same defects, if they are defects, as have been pointed out by the Builders Association.

The modes of corruption in this Department are:—

I. Tenders:

(1) Defective preparation of tender notices including failure to specify clearly the size, quality of material, detailed specifications, detailed drawings and manner of executing work.

(2) Adoption of varying specifications in contracts for works of a substantially similar nature.

(3) Ambiguous specifications.

(4) Divulging information to the favourite contractors about rates of other contractors.

(5) Rejecting lowest quotations on unjustifiable or flimsy grounds.

(6) Manipulation and substitution of tenders.

II. Pooling

In these cases, all contractors join together and quote higher quotations with the understanding that the one amongst them should quote slightly lower rate than others so that the contractor concerned gets the order. This is generally resorted to with the connivance of the Central Public Works Department officials.

III. Works

(1) *Foundation.*—Wrong classification of foundation soil—for instance, classification of loose soil as hard soil, soft rock as medium rock, with a view to making extra payment to contractors.

(2) *Foundation Concrete.*—Pecuniary gain may be caused to contractors by allowing them to use defective and sub-standard material—use of over-size stone metal—use of unscreened and poor quality sand.

(3) *Use of less Lime or cement than specified.*—If the specified proportion of cement concrete is 1:4:8, the contractors are allowed 1:6:12.

(4) *Brick works.*—Use of second class bricks in place of first class bricks for which specification is made.

(5) *Wood Work.*—Allowing use of below specificaton wood—it may be in quality and quantity.

(6) *R.C.C. Items.*—Allowing use of less steel than actually paid for.

(7) *Flooring.*—Allowing use of less thickness and use of less material.

(8) *Plastering.*—Use of less cement and poor quality of sand.

(9) Departmental use of materials.—Issue of excessive quantities to contractors with a view to allowing them to sell in black-market at high rates and make money.

(10) *Earth work.*—Recording of false measurement of earth work done.

(11) *Grant of extension of time,* so that the contractors are not penalised.

(12) *Splitting of contracts.*—Favours can be shown to contractors by placing orders in piece-meal with a view to getting over the financial limitation for placing contracts.

(13) *Misappropriation* of Government material.

(14) Misappropriation of wages by making fictitious entries in Muster Rolls.

(15) Substitution and deviation from contract conditions.

(16) Schedule of quantities in maintenance works copied blindly from schedules prepared years ago and not in accordance with actual requirements.

(17) Issue of materials to contractors without there being any stipulation on that account in the agreement.

(18) *Final Bills.*—By resorting to delay in taking measurements and thereby delaying the final bills the contractors are forced to

pay speed money—in connivance with contractors the measurements are inflated.

(19) Connivance of sub-standard work and rejection of excluded works on unjustifiable or flimsy grounds.

IV. Contracts

(1) Specifications in agreement not being in accordance with the approved Central Public Works Department specifications.

(2) Deliberate ambiguities in specifications.

(3) Failure to recover penalties.

(4) Too stringent or too liberal interpretation of the contract conditions.

As elsewhere, it is difficult to make a precise estimate of corruption in this Department. The major portion of the activities of this department involves considerable expenditure of public funds through departmental agencies and contractors. Therefore the statistics furnished below should give a fair measure of the extent of corruption, though it may be that all complaints and cases may not involve charges of lack of integrity.

Complaints.

Period	No. for disposal		No. disposed of		No. pending	
	G.	NG	G.	NG.	G.	NG.
1	2	3	4		6	7
1-4-57 to 31-3-58	413	737	336	543	77	194
1-4-58 to 31-12-58	237	717	183	586	54	131
1-1-59 to 31-12-59	155	639	126	489	29	150
1-1-60 to 31-12-60	210	657	170	497	40	160
1-1-61 to 31-12-61	259	747	183	572	76	175
1-1-62 to 31-12-62	276	733	184	538	92	195
Vigilance Cases						
1-4-57 to 31-3-58	187	194	106	127	81	67
1-4-58 to 31-12-58	107	180	51	87	56	93
1-1-59 to 31-12-59	87	249	34	138	53	111
1-1-60 to 31-12-60	111	257	39	156	72	101
1-1-61 to 31-12-61	64	10541	29	8396	35	2145
1-1-62 to 31-12-62	114	249	25	116	89	133

The total number of cases involving over-payments finalised during the last 6 years was 1519 and the total overpayment involved which has been intimated to the Accountants General, amounts to Rs. 33,73,520. Details are given below.

Sl. No.	Period	Cases of overpayments finalised with the Deptt. and intimated to AGs for adjustment		Cases of overpayments not yet adjusted (upto 3/63)	
		(a) No.	(b) Amount	(a) No.	(b) Amount
1.	6/57—12/57	13	60,783·81	1	20,222·75
2.	1/58—6/58	48	1,18,194 67	..	..
3.	7/58—12/58	67	2,31,981 25	6	1,33,977·55
4.	1/59—6/59	138	1,83,370·67	29	95,926·36
5.	7/59—12/59	126	3,43,738·75	35	1,14,141·45
6.	1/60—6/60	166	4,04,516·92	35	2,21,753·30
7.	7/60—12/60	173	5,69,853·23	44	4,20,438·16
8.	1/61—6/61	136	4,45,711·21	47	3,27,070·93
9.	7/61—12/61	171	2,25,127·04	56	1,31,388·83
10.	1/62—6/62	218	3,81,124·51	108	2,04,163·35
11.	7/62—3/63	263	4,09,117·50	204	3,72,019·86
	TOTAL	1519	33,73,519·56	565	20,41,102·55

It is further seen that the Chief Technical Examiner found between the period June 1957 to December 1962 defects in 47·1 per cent of bills examined (1041 out of 2211), in 30·8 per cent of contracts examined (403 out of 1307), in 30·9 per cent of muster rolls examined (230 out of 745) and in 87·6 per cent of works examined (2734 out of 3122).

The Special Police Establishment took up 94 cases involving 48 gazetted officers and 69 non-gazetted officers of the Central Public Works Department during the three years 1960, 1961 and 1962 for investigation. The action taken on the basis of investigation of these cases is mentioned below:—

	G. Os.	NGOs.	Remarks
Number involved	48*	69	*includng one Supdt. Engineer, One Superintending Surveyor and 15 Executive Engineers.
Number prosecuted	5@	9	@ including one Executive Engineer.
Number convicted	3	5	
Number sent up for D.A.	39	53	
Number dismissed or removed from service	3	8	
Number otherwise punished	9	15	

From the information furnished by the Department we find that from 1958 to 1962 various penalties have been imposed on 140 gazetted officers and 184 non-gazetted personnel.

Considering all aspects of the problem we make the following recommendations:—

(1) The Government may have a comparative study of the contract forms in other countries where public works are executed, as in India, and consider what improvements could be made.

(2) It was also suggested to us that there should be a reduction in the supervisory staff and that condition of eligibility for registration as a contractor should be that the contractor should employ an adequate technical staff of their own. The further corollary to this suggestion was that supervision by Government should be entrusted to the levels of Executive Engineer and above. We recommend that this may be tried out as an experiment at least in a few contracts to begin with.

(3) The Chief Technical Examiner's Cell set up in the year 1957 has been doing extremely good work. We consider that this organisation should not only be continued but also should be suitably strengthened to discharge the functions that have been entrusted to it more effectively and intensively. The jurisdiction of the organisation should be extended to cover construction work which may be undertaken by any Ministry/Department/Central Corporate undertaking through its own agencies. The Chief Technical Examiner's Cell should also have specialised staff like wood experts, accounts men etc. This organisation should be attached to the Central Vigilance Commission so that its services may easily be available to the Central Bureau of Investigation or in inquiries which are caused to be made under the directions of the Central Vigilance Commission.

(4) The Chief Vigilance Officer of the Central Public Works Department may be given the assistance of a Deputy Superintendent of Police of the Special Police Establishment with some officers of the lower grade for the purpose of collection of intelligence and making inquiries into complaints which are not transferred to Chief Technical Examiner for investigation. There may be a vigilance officer attached to each Superintending Engineer and they should have direct access to the Chief Vigilance Officer of the Central Public Works Department.

(5) At present disputes between the contractor and the Department are settled by arbitration, the arbitrator being an official of the Central Public Works Department. In our view the arbitrator should be an officer from the Ministry of Law as in the case of Directorate General of Supplies and Disposals.

(6) The contractors should be required to maintain detailed accounts supported by vouchers in respect of the work executed by them, which should be made available for scrutiny by the Chief

Technical Examiner and the Deputy Superintendent of Police deputed to assist the Chief Vigilance Officer.

(7) The contractors should be required to maintain detailed expense accounts particularly all expenses relating to entertainment, presents given and provision of other facilities made by the contractors to the Central Public Works Department personnel. The contractor should be required to furnish proof of all expenses exceeding Rs. 50. As regards enteitainment he should be required to furnish details regarding persons entertained, the time and place of entertainment and the purpose. Accounts should be available for scrutiny by the Chief Technical Examiner and the Deputy Superindent of Police.

(8) The Special Police Establishment should be informed of all contracts of a value of more than a lakh of rupees even at the stage of issue of tender notice so that they may keep a discreet watch over the transactions.

(9) The Special Police Establishment should be informed by the appropriate authorities of issue of controlled articles of over a specified value so that they may keep an eye on the utilisation thereof.

(10) The Special Police Establishment should be informed of all earth works undertaken if the value of the particular work exceeds a specified amount.

(11) The Central Public Works Department authorities should inform the Income-tax authorities of all contracts awarded to contractors, payments made, details of sub-contracts made by contractors. For this purpose the contractor should be required to submit a statement of sub-contracts entered into by them with full details. This statement should be submitted once after issue of the work order and thereafter once in three months till completion of the work. A responsible official of the Central Public Works Department should, after proper verification, certify the correctness of the statement.

(12) The various disbursing authorities should be required to submit a statement by the 5th of each month of all bills pending payment for more than 15 days on the first of each month, and officers who are persistently delaying payment should be suitably dealt with. The Chief Technical Examiner and the Chief Vigilance Officer of the Department of Works and Housing should undertake a periodical inspection of the position of payment of bills.

(13) Specifications and standards must be realistic and failure to perform or execute a contract in accordance therewith should be made a substantive offence if payment is sought without disclosing true particulars.

ANNEXURE XI

INCOME-TAX DEPARTMENT

The function of the Income-tax Department primarily involves assessment, collection, recovery and refund of tax. By its very nature, the work involved is complicated inasmuch as the intricate provisions of the Income-tax and other fiscal laws have to be effectively administered in relation to nearly a million tax payers. The administrative set up of the Income-tax Department is divided into various distinct units, each in charge of a Commissioner of Income-tax. The following 16 such units have been formed on a territorial (States) basis:—

> Madras, Bombay City I, Bombay City II, Bombay North, Bombay South, West Bengal,, Calcutta, Uttar Pradesh, Madhya Pradesh, Punjab, Delhi, Bihar and Orissa, Assam, Mysore, Andhra and Kerala.

Two such units namely, Calcutta (Central) and Bombay (Central) circles, have been formed without reference to the areas. They deal with the cases, or classes of cases, specifically assigned to them by the Central Board of Revenue, in which systematic evasion of tax is suspected or special scrutiny of accounts considered necessary. The Income-tax Department is also entrusted with the administration of Excess Profits Tax Act, 1948, the Business Profits Tax Act, 1947, the Estate Duty Act, 1953, the Wealth Tax Act, 1957, the Expenditure Tax Act, 1957 (now repealed) and the Gift Tax Act, 1958. There is also an Income Tax Officers' Training School at Nagpur under the control of the Income-tax Department.

The total strength of personnel employed in the Income-tax Department is 17,206. The break-up is as follows:—

(a) Gazetted	1,531
(b) Non-gazetted	15,436
(c) Work charged, Contingency etc. Staff	239
TOTAL :	17,206

2. We were supplied with detailed notes by the Department. Exhaustive notes on evasion and avoidance of taxes and Secrecy provisions were prepared for our use by our Secretary. We discussed the problem with the Chairman and members of Central Board of

Revenue, Commissioners of Income-tax and with representatives of Trade organisations at Bombay and Calcutta.

3. *Modes of corruption.*—The modes of corruption in the department mainly fall under two major heads:—

(i) By wilfully showing favours to tax payers which are not due in matters relating to—

(a) Assessments.

(b) Penalties.

(c) Appeals.

(d) Recovery of taxes.

(e) Refunds.

(f) Procedural-tactics.

(g) Tampering with records.

(h) Miscellaneous.

(ii) By deliberately causing harassment with a view to gain favours from the tax payers.

The scope for corruption at the different levels of this Establishment exists as stated below:—

Inspecting Assistant Commissioner and Appellate Assistant Commissioner:

(1) Fixation of appeals out of turn.

(2) Giving advantage to assessees in the matter of adjournments, assessment, imposition of penalties.

(3) Reducing in appeal the amount assessed on specious grounds and failure to enhance assessment even when justified.

(4) Granting of excessive relief, dropping requisition for remand report, readily granting adjournment to appellants or admitting fresh grounds of appeal, etc.

(5) Overlooking under-assessment.

(6) Not selecting cases of known tax evaders for inspection.

(7) Not ensuring that instructions issued are followed up.

(8) Putting an Income-tax officer under an obligation by overlooking his lapses etc. and giving oral and confidential instructions resulting in under-assessment.

(9) Granting time for payment of taxes.

(10) While fulfilling statutory function like approving penalty proposals, exercising discretion in 23A cases, compounding

prosecution, etc. calling wealth statement without assigning reasons, etc.

Income-tax officer:

(1) Speculation on share-market.

(2) Accepting returns of income without proper scrutiny.

(3) Making under-assessments.

(4) Not making assessments under Section 18A(1).

(5) Accepting without proper examination suspicious transactions entered in the books of accounts of assessees.

(6) Allowing deductions without scrutiny.

(7) Refraining from imposing penalties.

(8) Ante-dating orders.

(9) Dealing with big assessments on the eve of transfer.

(10) Harassing assessees by making heavy assessments.

(11) Refusing adjournments or giving them where it is unjustified.

(12) Accepting voluntary disclosures from bogus parties without making proper investigation.

(13) Conniving at the spreading of concealed income over several years.

(14) Making irregular assessments in new cases and transferring them immediately thereafter to other Income-tax Officers.

(15) Omitting to obtain and place on record trial balances of copies of personal accounts particularly squared up accounts with large credits.

(16) Omitting to obtain and place on record copies of partnership deeds and other documents let in evidence.

(17) Not issuing assessment orders along with the demand notices.

(18) Not taking timely or speedy action on voluntary returns.

(19) Wilfully delaying to issue refunds.

(20) Omitting to set out in the records the rates of gross profits in other comparable cases and making random additions purposely so that they might get knocked off on appeal, adopting lower rates of gross profits in cases

where profits have to be estimated on account of the books of accounts of the assessees not being acceptable.

(21) Deliberately allowing bank cards to lie over indefinitely without taking any action whatsoever.

(22) Wilfully delaying the tax clearance certificate or raising flimsy objections thereto.

(23) Wilfully omitting to take action for collection of revenue and allowing the taxes to be eventually certified under Section 46(2).

(24) Wilfully omitting to extract information or to verify extracts received from other offices.

(25) Insertion or removal of important papers from files or deliberate failure to bring on record important facts and data.

(26) Failure to cross-check data already available on record.

(27) Not making use of intimation slips.

(28) Delaying issue of refund/tax clearance certificates.

(29) Partiality towards particular Income-tax practitioners.

(30) Applying different standards for different assessees of the same type.

Inspector:

(1) While examining account books produced by assessees.

(2) At the time of general surveys of bazars and residential localities.

(3) At the time of collection of facts from different sources of information.

(4) At the time of making special inquiries regarding suspected evasion of tax or other inquiries.

(5) Failure to report taxable income discovered or making reports favourable to the prospective assessee.

(6) Dropping of proceedings or failure to pursue proceedings in trial case registers.

(7) Passing on information to assessees.

(8) Obtaining various kinds of facilities.

(9) Omitting undisclosed income or understating income from known sources in case of persons who are already assessed.

(10) Submission of inaccurate or misleading notes in cases given by Income-tax officer for examining accounts.

(11) Delaying the submission of inquiry report or service of notice.

Other Staff:

(1) Removal of important documents like (a) acknowledgment for service of notice (b) statements of total wealth (c) other important statements unfavourable to assessees.

(2) Keeping back files from Income-tax officers and not fixing up hearing, thus delaying assessment.

(3) Delay in issue of Demand Notices.

(4) Non-submission of file in time to take action under section 46(1) of Act.

(5) Delay in issue of Refund orders and their despatch. Failure to send advice to bank.

(6) Non-filling or removal of Income-tax 93 Slips, extracts from Registration Office, Railway extracts from file.

(7) Leakage of information to assessees.

(8) Obtaining commodities free of cost or at less than cost.

(9) Obtaining free passes for transport, cinema shows, etc.

(10) Obtaining free use of cars.

(11) Claiming false T.A.

(12) Making false medical claims.

(13) Taking assessees out of turn or by not intimating the arrival of an assessee to the officer.

(14) Delaying service of notices or delivery of refund orders.

(15) Passing on information about new assessees to Income-tax practitioners for getting them new business or advising or persuading assessees to engage particular Income-tax practitioner.

(16) Back-dating receipt of application under Section 26A.

(17) Not putting up files as per Forward Diary or purposely misplacing them.

(18) Giving credit for tax deducted and paid at source without actually verifying it.

(19) Omitting issue of notices under Section 22(2).

(20) Deliberate wrong computation of tax.

(21) Fixing appeal out of turn and delayed communication of Appellate orders of Appellate Assistant Commissioner.

(22) Delay in putting up Income-tax officer's proposal for penalty and draft assessment orders.

(23) Not fixing cases when the assessees do not want it or adjust the date according to assessees' convenience.

(24) Interpolation in documents and other papers in the files giving back date etc.

(25) Delay in issue of tax clearance certificate, withholding of appellate orders.

(26) Divulgence of information contained in anonymous and pseudonymous representations.

(27) Pestering visitors for tips/bakshish.

(28) Returning statutory notices, assessment orders, Demand Notices, letter, etc. (by Notice Server).

(29) Non-entry of penalties in the penalty register

Apart from the above the most important and urgent problem that has to be dealt with by this Department is that of evasion and avoidance of tax as such mal-practices represent the graver types of white-collar crime and cause damage to the economy of the country and place an unequitable burden on the honest tax-payer. Tax so evaded and avoided is kept as unaccounted money and one of the many uses to which it is put is for corrupting public servants. This problem was examined in detail by the Direct Taxes Administration Enquiry Committee and before that the Taxation Inquiry Commission and by Prof. Kaldor. We do not wish to traverse the ground covered once over nor burden this Report with a detailed reference to the various provisions of the Income-tax Act, 1961, like Sections 10(3), 10(4), 11, 13, 37, 52, 60, 64, 67, 68, 69, 73, 74, 92, 93, 94, 104, which in our view appear to offer scope for avoidance and evasion. These are matters that the Department should itself examine and take suitable steps to plug the loopholes. We also noticed that there is no effective cooperation between the Income-tax and Central Excise and Customs Departments and the Sales-tax authorities functioning under the State Governments. If the problem of evasion and avoidance of tax is at all to be tackled effectively immediate arrangements should be made for ensuring effective cooperation in this regard. Secondly cases of evasion and avoidance are now dealt with by the Directorate of Investigation and Inspection and the special circles each functioning in its own allotted sphere. A suitable machinery should be devised for effectively coordinating the activities of the various units.

Another point, to which we would like to refer, is relating to the secrecy provisions in the taxation laws. We consider that there is no

justification for retaining these provisions particularly as they hamper the communication of information about the corrupt practices indulged in by big assessees in their dealings with public servants.

Considering all the aspects of the matter we make the following recommendations:—

(i) As in U.S.A. and in some European countries there should be no secrecy in respect of Income-tax returns and other particulars.

(ii) No item of expenditure in the nature of entertainment or other expenses laid out or expended wholly or exclusively for the purpose of business should be admitted for deduction unless supported by a primary voucher if the amount of expenditure is in excess of Rs. 100/-

(iii) Full particulars of all entertainment expenses should be given including the purpose, place and dates of entertainment, the persons entertained, the business purposes and business relationship are given. Information should be passed on to Special Police Establishment where there is reason to suspect that public servants are involved.

(iv) External survey should be intensified. Advance intimation of the programme of external survey should be given to the Special Police Establishment in secret so that they may keep a discreet watch over the survey staff.

(v) Particulars of income tax returns of individuals and companies having more than a specified amount of assessable income should be furnished to the Special Police Establishment to enable them to make local inquiries.

(vi) The existing arrangements should be strengthened to avoid delay particularly in matters like internal survey and the work of the collation branch. Assessments of tax above a specified limit should be reviewed carefully by officers selected for their integrity

(vii) Income-tax offences of illegal evasion and avoidance must be made cognisable and non-compoundable offences.

(viii) The punishment for such offences should be imprisonment for atleast a period of 3 years and the amount found to be evaded or avoided should be liable for forfeiture.

(ix) The work load on income-tax officers (now about 1000 cases a year) should be reduced. The charges of Commissioners and Assistant Commissioners should be smaller.

(x) In cases where income exceeds or is likely to exceed a specified limit the emphasis should be on the quality of assessment.

(xi) The Commissioners and Assistant Commissioners should also do some original assessment work.

(xii) The system of inspection should be made more effective and for this purpose an Inspection Squad may be created either in the Central Board of Revenue or in the Directorate of Inspection (Investigation).

(xiii) Arrangements should be made for a random sample scrutiny of appellate orders involving reduction of tax in cases of income exceeding Rs. 1 lakh. The Commissioners should also make such scrutiny of a large percentage of cases.

(xiv) All assessing and appellate authorities should maintain a clear record of the day-to-day proceedings in the cases dealt with by them.

(xv) The duties of Inspectors should be clearly laid down and they should be required to maintain a diary of the work done by them on each day. These diaries should be scrutinised carefully by the Income-tax Officers and by the Inspecting Officers.

(xvi) The Income-tax Officer should make a test-check of the outdoor work of the Inspectors and Survey reports of Inspectors for discovering and correcting under-estimates and over-estimates.

(xvii) Cases should be fixed according to a definite programme of work.

(xviii) Income-tax appeals should not be taken out of turn without recording reasons.

(xix) Close watch should be kept on issue of Demand Certificates, recoveries and pendency of applications for refunds.

(xx) Special attention should be paid to the assessment of cases of assessees in business and professions.

We find that a number of preventive and remedial measures have been suggested in the notes that have been supplied to us. As these relate to minute details we have not referred to them here. We consider that most of them are very useful and these should be examined by the Department in consultation with the Central Vigilance Commission.

ANNEXURE XII

CUSTOMS AND CENTRAL EXCISE DEPARTMENTS

We have examined the scope, extent and modes of corruption in the Customs and Central Excise Departments. These are among the most important revenue-earning departments and practically every decision taken in these Departments has a financial implication. It is needless to say that these Departments should function with the utmost honesty and fairness, and that if either is wanting loss to the public exchequer will be great and resentment against Government will grow. We have had discussions with the Chairman and members of the Central Board of Revenue and Customs Collectors in Bombay and Calcutta. We also heard the representatives of a number of Trade Associations in Bombay and Calcutta.

Customs Department:

The Customs Department is the Executive Organisation for levy and collection of Customs duties by assessment of goods coming into or going out of India and prevention of smuggling. There are seven Customs Houses at Bombay, Calcutta, Cochin, Madras, Visakhapatnam, Kandla and Pondicherry. All the Customs Houses are under the direct supervision of the Central Board of Revenue. The collection of customs duties at all other minor ports and at land frontiers is looked after by the Central Excise Department. The Customs Department also administers the various restrictions and prohibitions under diverse Acts relating to imports and exports of goods.

The total strength of personnel employed in the Customs Department is:—

(a) Gazetted		340
(b) Non-Gazetted		4468
	Total	4808

The modes of corruption in the Customs Department are:—

(1) Speed money for expediting movement of papers and files.

This malpractice is prevalent in:—

(i) Import Section.

(ii) Appraising Section.

(iii) Cash and Accounts Section.

(iv) Preventive and Export Section.

(v) Drawal and Refund Section.

(2) Delay in clearance of goods in processing and grant of inward entry, port clearance, bills of entry, bills of shipping, cash and accounts, manifest clearance, granting drawback.

(3) Improper selection of baggage for examination by Preventive Officers and non-examination or inadequate examination of packages.

(4) Under-assessment of goods by Preventive Officer in baggage examination.

(5) Allowing clearance of smuggled goods and connivance at smuggling.

(6) Warehouse for confiscated goods:—

(a) Intimation of information regarding fair reserve price.

(b) Release and substitution of goods by unauthorised ones.

(7) Improper audit of bills of entry, shipping bills and drawbacks.

(8) Under-assessment.

(9) Release of goods against invalid license.

(10) Issue of Incorrect Rulings.

(11) Duplication of marks and numbers on the packages.

(12) Declaration of new articles as old.

(13) Permitting clearance of goods which do not conform to description on import license and passing goods of one description as another.

(14) Substitution of seized articles by spurious ones and of valuable articles like diamonds, gold, jewellery, etc. by spurious or imitation articles.

(15) Release of seized goods for re-export.

(16) Failure to weigh goods and draw samples.

(17) Submitting favourable reports from suspects for consideration.

(18) Divulging in advance secret information of impending search of suspects.

(19) Favourable assessment by under-valuation or acceptance of invoices without proper scrutiny or market enquiry.

(20) Deliberate wrong classifications for purpose of:—

(i) Customs Tariff.

(ii) I.T.C. so as to give the party wrongful advantage.

(21) Substitution of samples *en route*.

(22) Suppressing offences under Merchandise Markets Act.

(23) Over-valuing the goods in cases where the exports are under the Export Promotion Scheme to enable exporters to secure an ITC license in return for such exports and under-valuing the goods to enable circumvention of the Foreign Exchange Regulations.

(24) Wrong report about margin of profit.

(25) Wrong reports about previous offences of the party.

(26) Incorrect debiting of the license and wrong certification of the balance.

(27) (Deliberate) mistakes and delays in sending release advices.

(28) Suppression of the less Charge claims.

(29) Losing valuable bonds and guarantees.

(30) Overlooking defects at the time of execution of bonds/guarantees and acceptance of signatures of parties and sureties without proper verification.

(31) Extending the concession of note-pass procedure to parties who are not entitled to this concession.

(32) Introducing the time-barred claims into office records under the earlier date.

(33) Favouritism in the matter of examination of Books of Accounts.

(34) Issue of spurious landing certificates in cases where no unaccompanied baggage is expected to arrive thus making it possible to import trade-goods under the cover of unaccompanied baggage.

(35) Issue of spurious export certificate for goods which are actually not exported thus making it possible for the party to import from abroad dutiable goods of corresponding description and clear it free of duty as reimported.

(36) Not verifying the re-export of articles which were initially allowed clearance on Tourist Re-export Forms.

(37) Surreptitiously passing unclaimed packages containing contrabands in the confusion that prevails during baggage examination.

(38) Passing of crudely manufactured gold as jewellery.

(39) In the passing of crewbaggage.

(40) Inadequate check of stores at the time of arrival of the vessels.

(41) Improper check of articles cleared under machinery pass.

(42) Dereliction of duty by officers posted as Ships' guards and gate officers who are at times known to land the contraband themselves and remove it in their person.

(43) Frauds at the time of inventorising the contents of the seized or detained packages.

(44) Frauds in the matter of destruction of the goods to be destroyed.

(45) Sharing the reward sanctioned to informers.

(46) Putting up spurious informers sometimes put up in cases where the information is the result of the officer's own study.

(47) Mistakes (deliberate) in the chemical tests can have serious revenue implications.

(48) Pilferage/loss of the remnants of the samples tested.

(49) Fraud by deliberate loss of misplacement of important documents which are stored in the Manifest Clearance Department.

(50) Short Landing Refund Claims.

(51) Frauds in issue of certificates of past imports which are required by the parties for establishing their quota rights for purposes of obtaining ITC licence. The Bills of Entries etc. are sometimes tampered with in material particulars and the names of the party and quantity and value of the goods are altered.

(52) Deliberate loss of misplacement of objections and other inconvenient files by the removal of which the parties effected may stand to gain.

(53) Malpractices of manipulating daily lists. In case of certain commodities the market price is indirectly effected by the wrong publication of the Statistics in these lists.

Central Excise Department:

The Central Excise Department of the Ministry of Finance is the Executive Organisation responsible for the collection of all central excise duties levied by the Central Government and also for the collection of customs duty at land frontiers and at the minor ports other than Bombay, Calcutta, Madras, Cochin, Visakhapatnam, Kandla and Pondicherry.

The total strength of personnel employed in the Central Excise Department is 30,408. The break-up is as follows:—

(a) Gazetted	498
(b) Non-Gazetted	29,466
(c) Work charged, Contingency etc. staff ..	444
Total:	30,408

The modes of corruption in this Branch of the Customs and Central Excise Department are:—

(1) Unauthorised removal of excise goods.

(2) Illegal gratification in issue and renewal of Central Excise licenses.

(3) Less Registration of plots in survey books. Manipulation of entries in survey books by way of fragmentation of land holdings, registering lesser acreage, bogus crop and field survey, collusive acceptance of crop failure petitions.

(4) Under declaration and under-assessment of cured tobacco.

(5) Recording false certificate about destruction of tobacco.

(6) Condoning losses with liberal percentage.

(7) While checking goods in transit, releasing goods liable to be seized.

(8) Undercharging excise duty.

(9) Misappropriating amount of arrears collected on T.R. 5.

(10) Connivance with V.N.E. oil mills in suppressing actual production and realising less duty.

(11) Accepting favours from licensees, subordinates.

(12) Accepting fixed amount for quick clearance and in issuing permits speedily (speed money).

(13) Issue of certificate to power-loom owners for issue of tax mark.

(14) Under verification of annual returns.

(15) Fictitious processing in warehouse.

(16) Clearance of larger quantities from warehouse than shown in clearance documents.

(17) Issue and renewal of licenses for a consideration per license.

(18) Factories reporting breakdown, without actual breakdown.

(19) Clearance without payment of duty.

(20) Delay in renewal of licenses. Delay in giving clearance of excisable goods.

(21) Realisation of arrears of excise duty on tobacco from curers on manuscript receipts and misappropriating them.

(22) Acceptance of money from wholesale dealer in renewal of licences.

(23) Collecting mamuls from warehouse, licensees for waiving formalities and requirements.

(24) Collusion with CPSR licensees for short weighment of the quantities deposited in the store room.

(25) Giving false certificate about destruction of tobacco in warehouses, CPSR and curer premises.

(26) Collecting mamuls or cash where the villagers are not able to obtain Excise stamps in excess of the prescribed fee from licensees for issue and renewal of licences and/or misappropriating cash so collected in lieu of stamps.

(27) Issue of bogus transport permits and connivance with licensees in use of fraudulent sale notes.

(28) Collusion with warehouse licensees for time extension of transport documents.

(29) Collection of mamuls at time of weighment of professional curers produce in their curing premises.

(30) Collection of mamuls from free L.1 curers.

(31) Collection of mamuls for not sealing the equipments which are shown on record as not working.

(32) Deliberate crushing of superior variety of tobacco.

(33) Ineffective sealing of crushing equipment.

(34) Allowing Factories in interior to work without licence.

(35) Helping power-loom owner to obtain certificate for import quota of yarn in respect of art silk on false pretext.

(36) Issuing of central excise license on false certificates on the existence of power-looms.

(37) Working more power-looms than the number shown.

(38) Approving disproportionately low prices for Central Excise Commodities liable to Central Excise duty on *ad valorem*.

(39) Giving false certificate about destruction of exercisable articles.

(40) Under declaration of tobacco cured with a view to subsequent illicit disposal.

(41) Receipt of licence fee in cash in excess of the prescribed amount.

(42) Allowing sale note concession realising money as "Sale note fee".

(43) Compelling licensees to pay money taking advantage of technical irregularities.

(44) Affixing used Central excise stamps on licence applications and misappropriating the money collected from licensees.

(45) In assessing of raw tobacco and flake tobacco.

(46) Promising cultivators of securing and expediting licence for them.

(47) Issuing licence to ineligible cultivators by manipulating average yield by recording area of field less than the actual area under poppy cultivation or by showing area under Nadar cultivation. Deliberate wrong calculation also done.

(48) By recording wrong classification so as to allow cultivators some margin for illicit gain.

We consider that in view of the enormous importance of ensuring integrity in this department, an effective vigilance organisation should be set up both at Headquarters and at the Customs & Excise Collectorates. Arrangements should also be made for the Special Police Establishment to collect intelligence about the various malpractices that occur in the working of this Department and for this purpose the Special Police Establishment's Branches should be suitably strengthened. Special Police Establishment Officers should also be conferred with such powers as are necessary to make them effective in the discharge of the additional responsibilities entrusted to them. We also consider that it may be useful to take on deputation some Customs Officers in the Special Police Establishment even as an Income-tax Officer has been brought on deputation to it.

There should be free exchange of information between the Customs Officers and the Special Police Establishment and if there is any legal difficulty regarding secrecy or other matters it should be removed.

Customs Collectors should set apart a few hours at least once a week so that during the specified hours any persons with any complaint or difficulty may approach them openly and freely for redress. Wide publicity should be given to this arrangement and all trade

associations having anything to do with the Customs authorities should be informed of the arrangements made.

We find that many of the important functions are entrusted to comparatively low paid staff. We consider that it would contribute in a large measure to the honest functioning of this department, if matters like appraisement, baggage clearance etc., are done at least at the important ports and air-ports under the direct supervision of Senior Assistant Collectors. In addition, Appraisers and Preventive Officers should be of a higher status and rank and better paid than they are at present. These recommendations, if accepted, would have incidentally the additional advantage of removing complaints of rude behaviour towards and thoughtless harassment to those that land at the ports, sea and air, of this country.

We were extremely distressed to find that smuggling is more or less an organised racket, and unless anti-smuggling measures are more effective it would be difficult to maintain integrity in the Customs services. We were told that the Customs authorities have some knowledge about the ring leaders of this racket, but for various reasons they are unable to do anything. We were also told that some of the Customs personnel are suspected to be conniving at smuggling for consideration received regularly or for each occasion.

We recommend that there should be a Vigilance Officer for each collectorate of Customs and Central Excise. The Collectorate of Customs and Central Excise should also have each an Intelligence unit. Adequate field staff and transport facilities should be provided for the Vigilance Officers and Intelligence units.

We find that a number of preventive and remedial measures have been suggested in the notes that have been supplied to us. As these relate to minute details we have not referred to them here. We consider that most of them are very useful and these should be examined by the Department in consultation with the Central Vigilance Commission.

ANNEXURE XIII

CENTRAL CORPORATE UNDERTAKINGS

We have examined the working of four public sector undertakings situated in Bangalore. Detailed notes were supplied to us and we also held discussions with their top management personnel. The general policy of Government, evolved over the years, and after considerable thought, is that public undertakings, particularly those incorporated companies or set up as statutory corporations, should be given a large measure of freedom in respect of the staff matters and day-to-day administration; and that imposition of restrictions likely to weaken managerial initiative and responsibility should be avoided as far as possible. While it is for the autonomous managements of these undertakings to take all steps to maintain integrity, the Government has the ultimate responsibility to ensure that such steps are taken. We hope that the Parliamentary Committee to be appointed to watch over them will devote its attention to this aspect also.

From our study of the undertakings at Bangalore, we find that all these undertakings are continuously engaged in—

(1) Construction,

(2) Purchase,

(3) Storage and maintenance of valuable stores,

(4) Sales,

(5) Employment of considerable number of temporary staff.

For construction, purchases and sales, the common procedure is that tenders are invited generally from registered contractors, or suppliers.

We found that no uniform practice is followed in the matter of registering contractors and suppliers. Some undertakings did not even correlate their list of registered contractors with those of the Central Public Works Department or the State Public Works Department or with registered suppliers of the Director General of Supplies and Disposals. It was explained that these undertakings deal with such specialised production that no useful purpose could be served by bringing in their registers all the approved suppliers of

the Director General, Supplies and Disposals. However, the procedure relating to inclusion or exclusion of applicants for registration on the list of approved suppliers should be such as to rule out misuse of discretion.

In the case of open tenders, malpractices are likely to take place in the supply of tender forms and in the manner in which the tenders are advertised and in the opening of tenders and processing them further. It may not always be possible to accept the lowest tender and the discretion given in this matter is liable to abuse. In the case of complicated machinery, objections may be taken regarding conformity to specifications. There may even be interpolation of tenders.

Advance intimation of the indent requirements to a friendly firm, leakage of the indentor's estimated value, and unnecessary particularisation of needless specifications to suit favourite supplies are some of the other possible irregularities.

The healthy rule that no permission to procure stores from abroad will be given where indigenous stores are available is also liable to abuse in some ways. Purchase from abroad may be refused even though actual supply from indigenous sources at the required time cannot reasonably be expected. On the other hand, declaration that the available indigenous stores are not suitable on a minor technicality can be resorted to for corrupt purposes. We were, however, assured that procurement from foreign countries is done only at the Government level and that as most of the public undertakings are projects undertaken in collaboration with foreign firms, there is not much scope for corruption in this regard at the level of the undertaking.

When contracts are entered into after the acceptance of tenders, changes in the form of contract providing for change in rates and quality including abnormal conditions and various escalators giving price preference are possible abuses. Similarly, extension of the time of performance of a contract, non-inspection or harassing inspection, acceptance or refusal or modifications in the specifications, determination of imposition of damages in case of non-performance or delayed performance, and finally by delaying payments, corrupt officials may misuse their power.

We, however, found that except in one undertaking, committees of the top management of the undertakings are responsible for approving purchase and other contract proposals.

In sales and disposals, fixation and changes of reserve prices, negotiations relating to price, declaration of goods as obsolete or that the cost of spare parts or reconditioning is too high, where goods are

sold by auction, collusion with the bidder, or allowing the formation of rings are some of the possible corrupt practices. In these undertakings, the disposal of scrap is very important. We found that existing procedures about scrap disposal would bear considerable improvement.

In regard to construction programmes, we were told that these are executed through the agencies available to the undertakings. We found that there is not much of exchange of information on this between the Central Public Works Department, State Public Works Department and the undertakings. The Management of one undertaking claimed that their rates are much cheaper than those of the Central Public Works Department or State Public Works Department.

Recruitment and the management of personnel is very important in these undertakings. Though we could find nothing seriously wrong with the present procedures, we would wish that procedures and practices in regard to these matters should be thoroughly scrutinised. It is necessary to ensure that persons who leave Government service under a cloud are not employed in the public sector undertakings.

We, therefore, recommend that:—

(1) Suitable procedures should be devised for registration and removal of contractors and suppliers. The experience of the Directorate-General, Supplies and Disposals, and other agencies like the Central Public Works Department, State Public Works Department, Railways and the Military Engineering Service should also be availed of, at least in the matter of registration of contractors and suppliers.

(2) The public undertakings should periodically publish a list of their approved contractors and suppliers and there should be a reasonable procedure for including new firms and excluding those whose performance was not satisfactory.

(3) Suitable procedures for purchases, sales and disposal of surpluses and scrap should be devised keeping in view the requirements of the particular undertaking, the need being expedition in the tasks undertaken by the undertaking.

(4) Whenever tenders are invited, they should be by open invitation and full publicity should be given. The managements of the respective undertakings may consider whether they can usefully associate representatives of Chamber of Commerce and of reputed trade journals living in their area to be present at the time of opening tenders.

(5) The procedures for opening of tenders, tabulating the quoted rates, should be such as would eliminate possible malpractices.

(6) A categorisation of the different functions of the organisation should be made on the basis of subjects that are better left to be decided by individual officers, so that there is no scope for blurring of responsibility in respect of such matters, and subjects that are better decided by a committee. In respect of the former, a system of review of the decisions taken and the discretion exercised should be instituted, the review being conducted by superior officers.

(7) Suitable arrangements may be made for random check of:—

(i) reports regarding capacity of firms applying for registration;

(ii) reports about suitability of raw material used and manufacturing process in respect of stores obtained under rate or running contracts or stores in respect of which pre-delivery inspection is dispensed with;

(iii) stores passed or rejected after inspection;

(iv) performance of firms and individuals on the approved list, if any, of contractors and suppliers;

(v) stores reported as surplus;

(vi) supervision of auctions for disposal of scrap and surplus stores and delivery thereof to the auction purchaser;

(vii) maintenance of record of attendance, payment of over-time allowances and various kinds of bonuses;

(viii) utilisation of transport vehicles; and

(ix) unauthorised use of workshop facilities and materials.

(8) An efficient vigilance organisation should be established in every public undertaking, which should be headed by a Vigilance Officer of the status of a Head of a Department, and Deputy Vigilance Officers should be appointed for each separate workshop and stores. The Chief Vigilance Officer should maintain a confidential list of officers of undoubted integrity, to whom he may entrust the random check in respect of any matter. The Chief Vigilance Officer should be appointed in consultation with Central Vigilance Commissioner and other officers in consultation with the Chief Vigilance Officer.

(9) There should be close co-operation between the Vigilance units of the undertakings and the concerned Special Police Establishment branch and there should be a regular system of exchange of information regarding:—

(a) big transactions of a value of not less than rupees five lakhs as soon as a decision is taken to initiate action for purchase or disposal through open tenders.

(b) all negotiated contracts of a value of rupees one lakh as soon as a decision to enter into negotiation is taken.

(10) One of the important things to be guarded against is theft of property of the undertakings. In such cases, difficulties of identification of goods stolen often arise. Some system of marking should be devised to facilitate easy identification.

(11) The conduct rules that we have recommended as having a direct or indirect bearing on integrity should be made applicable to the employees of the Central Corporate undertakings except to industrial employees drawing a pay of Rs. 500 or less and holding non-gazetted posts. (We have recommended that the need for continuance of the exemption granted to this category of employees in 1959 should be re-examined and in the meantime the exemptions may continue to be in force)

ANNEXURE XIV

Proposed strength (total) for Branches of the Special Police Establishment

Sl. No.	Branch	Strength								
		Ss.P.	Dy. Ss.P.	Inspectors	S.Is.	A.S. Is.	H.Cs.	F.Cs.	Sr. P.Ps.	P.Ps.
1	Bombay	3	9	28	7	9	8	71	2	4
2	Calcutta	2	8	22	6	6	7	59	2	4
3	Delhi	3	7	32	8	5	6	70	2	4
4	Madras	2	3	21	5	5	4	50	2	3
5	Hyderabad	2	3	19	5	4	4	44	1	4
6	Lucknow	2	3	19	5	4	4	44	1	4
7	Jabalpur	1	3	16	4	4	3	36	1	3
8	Ambala	1	3	15	4	3	3	38	1	3
9	Shillong	1	2	11	2	2	2	33	1	2
10	Manipur Unit (under Shillong Branch)	..	1	3	..	..	1	6	..	..
11	Jaipur	1	2	15	4	2	3	35	1	3
12	Patna	1	3	12	4	2	3	35	1	3
13	Bangalore	1	2	13	2	3	3	33	1	2
14	Bhubaneshwar	1	2	12	3	3	3	34	1	2
15	Ahmedabad	1	2	11	2	3	3	32	1	2
	New Branches									
16	Jammu and Kashmir	1	1	7	2	2	3	27	1	2
17	Kerala	1	1	6	2	2	2	25	1	2
18	Ranchi	1	2	6	2	2	2	27	1	2

Sl. No.	Branch	Strength								
		Ss.P.	Dy. Ss. P.	Inspectors	S.Is.	A.S.Is.	H.Cs.	F.Cs.	Sr. P.Ps.	P. Ps.
19	C. I. A. 'I' Wing . . .	1	3	8	2	8	8	24	..	..
20	C. I. A. 'C' Wing . . .	2	5	6	5	5	2	26	1	1
21	C. I. A. 'T' Wing . . .	1	4	6	5	5	2	23	1	1
22	C. I. A. 'F' Wing . . .	2	5	6	5	5	2	26	1	1
23	C. I. A. 'G' Wing . . .	1	4	6	5	5	2	23	1	1
	TOTAL .	32	78	300	89	89	80	821	25	53
	Present sanction (including temporary sanction) . .	19	38	180	59	44	39	552	16	37
	Extra requirements . . .	13	40	120	30	45	41	269	9	16

ANNEXURE XV

Statement showing Additional Staff required for Special Police Establishment Head Office

Sl. No.	Name of Section	D.I.G.	D.L.A.	Executive Engineer	Dy. SP.	Inspectors	Asstt.	P.P.	Stenographer	UDC	LDC	LDC Steno-typist	Daftry	FC	Peon
1.	Zone—I	1	..	..	1	2	1	1	1	3	2	1	1	5	1
2.	Zone—IV	1	..	..	1	2	1	1	1	3	2	1	..	5	1
3.	D.L.A.'s Office	..	1	..	..	..	..	..	1	..	..	..	..	..	1
4.	Executive Engineer's Office		..	1	..	..	..	..	1	1	..	..	..	..	1
	TOTAL	2	1	1	2	4	2	2	4	7	4	2	1	10	4

ANNEXURE—XVI

Statement showing the Ministerial staff required for new Branches to be set up in Special Police Establishment.

S. No.	Name of the Branch	Ministerial staff				Daftry	Sweeper
		Head Clerk	U. D. C.	Sr. Clerk Steno.	L. D. C.		
1.	Kerala . .	1	2	2	7	1	1
2.	Ranchi . .	1	2	2	7	1	1
3.	Jammu & Kashmir	1	2	2	7	1	1
4.	C.I.A. I Wing	1	1	2	3	..	..
5.	C.I.A. C Wing	1	2	5	7	1	..
6.	C.I.A. T Wing	1	2	3	7		..
7.	C.I.A. F Wing	1	2	5	7	1	..
8.	C.I.A. G Wing	1	2	3	7		..
	TOTAL	8	15	24	52	5	3

MADRAS

APPENDIX

List of witnesses who met the Committee on Prevention of Corruption.

At New Delhi

1. Shri C. Subramaniam, Minister for Steel & Heavy Industries.
2. Shri T. T. Krishnamachari, Minister of Finance.
3. Shri A. K. Chanda, formerly Comptroller and Auditor General of India.
4. Shri M. C. Setalvad, formerly Attorney General of India.
5. Shri S. S. Khera, Cabinet Secretary.
6. Shri B. Shiva Rao, M.P.
7. Shri H. V. Kamath, M.P
8. Shri A. D. Mani, M.P.
9. Shri L. M. Singhvi, M.P.
10. Shri Sachindra Chaudhuri, M.P.
11. Shri Prakash Vir Shastri, M.P.
12. Shri Durga Das, Managing Director, India News & Feature Alliance, New Delhi.
13. Shri N. E. S. Raghavachari, Director General, Supplies and Disposals.
14. Shri S. Bhoothalingam, Secretary, Ministry of Economic and Defence Coordination.
15. Shri S. Ranganathan, Secretary, Ministry of Commerce and Industry.
16. Shri D. R. Sundaram, Officer on Special Duty, Ministry of Commerce and Industry.
17. Shri U. G. K. Rao, CAO (DBK), Dandakaranya-Bolingir-Kiriburu Project, Waltair.
18. Shri R. Krishnaswamy, General Manager, Chittaranjan Loco Works.
19. Shri P. S. Venkataraman, Senior Deputy General Manager, Eastern Railway.
20. Shri B. C. Ganguli, General Manager, North-East Frontier Railway.
21. Shri Harbans Singh, General Manager, Northern Railway.
22. Shri H. D. Singh, General Manager, Southern Railway.
23. Shri G. D. Khandelwal, General Manager, South-Eastern Railway.
24. Shri H. D. Awasthy, General Manager, Railway Electrification Project, Calcutta.
25. Shri Ratan Lall, General Manager, Central Railway.
26. Shri S. C. Singha, Director, Vigilance, Ministry of Railways.
27. Shri M. A. Rao, General Manager, North Eastern Railway.
28. Shri S. Chakravarti, General Manager, Diesel Locomotive Works.
29. Shri O. S. Murthy, General Manager, Western Railway.
30. Shri A. K. Pant, Vigilance Officer, Western Railway.
31. Shri Mohamad Ayyub, Executive Engineer, Vigilance.
32. Shri R. Krishnamurthy, Vigilance Officer, Southern Railway.
33. Shri B. D. Pande, Chairman, Central Board of Revenue.
34. Shri B. N. Banerji, Vice-Chairman, Central Board of Revenue.
35. Shri R. N. Misra, Member, Central Board of Revenue.
36. Shri S. P. Pande, Secretary, Central Board of Revenue & *ex-officio* Deputy Secretary, Ministry of Finance (Department of Revenue).

37. Shri G. S. Sawhney, Assistant Director, Customs and Central Excise (Directorate of Inspection).
38. Shri J. P. Singh, Member, Central Board of Revenue.
39. Shri N. H. Naqvi, Director, Income-tax, Directorate of Inspection (Investigation).
40. Shri D. P. Anand, Member, Central Board of Revenue.
41. Shri S. K. Bhattacharjee, Director of Inspection, Customs & Central Excise.

At Bangalore

42. Shri S. Nijalingappa, Chief Minister, Mysore.
43. Shri R. R. Diwakar.
44. Shri V. P. Menon.
45. Shri K. Hanumanthaiya, M.P.
46. Shri P. Kodanda Rao.
47. Shri C. S. Venkatachar, ICS (Retd.).
48. Shri N. M. Ayyar, I.C.S. (Retd.).
49. Shri S. Parthasarathi Ayyangar, I.P., I.G., RPF (Retd.).

At Calcutta

50. Shri F. H. Vallibhoy, Commissioner of Income-tax, West Bengal I.
51. Shri B. M. Mitra, Commissioner of Income-tax, West Bengal II.
52. Shri B. B. Palekar, Commissioner of Income-tax, West Bengal III.
53. Shri Amjad Hussain, Commissioner of Income-tax, (Central).
54. Shri R. Prasad, Collector of Central Excise, Calcutta and Orissa, Calcutta.
55. Shri S. K. Srivastava, Collector of Customs, Calcutta.

At Bombay

56. Shri V. P. Naik, Chief Minister, Maharashtra.
57. Shri D. S. Desai, Home Minister, Maharashtra.
58. Shri S. G. Barve, Minister for Industries and Planning, Maharashtra.
59. Shri G. L. Mehta, The Industrial Credit and Investment Corporation, Bombay.
60. Shri D. F. Karaka, Editor, "The Current", Bombay.
61. Shri H. R. Mahajani, Editor, "The Loksatta", Bombay.
62. Shri D. B. Karnik, Editor, "Maharashtra Times", Bombay.
63. Shri Manohar Kotwal, General Secretary, Hind Mazdoor Sabha, Bombay.
64. Shri S. S. Mirajkar, President, All India Trade Union Congress, Bombay.
65. Shri M. A. Rangaswamy, Collector of Customs.
66. Shri M. Panchappa, Additional Collector of Customs.
67. Shri S. P. Kantani, Collector of Central Excise.
68. Shri R. Doraiswamy, Textile Commissioner, Bombay.
69. Shri N. H. Nagarwalla, Joint Chief Controller of Imports and Exports, Bombay.
70. Shri A. S. Naik, Chairman, Forward Markets Commission.
71. Shri R. N. Jain, Commissioner of Income-tax, Bombay City I.
72. Shri K. E. Johnson, Commissioner of Income-tax, Bombay City III.
73. Shri P. S. Viswanathan, Commissioner of Income-tax, Bombay (Central).

List of Associations whose representatives met the Committee on Prevention of Corruption.

At New Delhi—22-2-63.

1. The All India Manufacturers' Organisation, New Delhi.

At Calcutta—6-1-64 *to* 8-1-64.

2. The East India Jute & Hessian Exchange Ltd., Calcutta.
3. Indian Engineering Association, Calcutta.
4. Indian Mining Federation, Calcutta.
5. Bharat Chamber of Commerce.
6. Bengal Chambers of Commerce.
7. Bengal National Chamber of Commerce & Industry.
8. Calcutta Import Trade Association.
9. The Calcutta Stock Exchange Association.
10. Indian Mining Association.

At Bombay—22-1-64, 23-1-64

11. The Bombay Chamber of Commerce & Industry.
12. The Maharashtra Chamber of Commerce.
13. The All India Importers Association.
14. The Bombay Oilseeds and Oils Exchange Limited.
15. All India Stainless Steel Importers Association.
16. The Bombay Overseas Freight Brokers Association.
17. The Bombay Cotton Merchants' and Muccadums' Association Ltd.
18. The Bombay Shroffs' Association.
19. The Bombay Watch Dealers' Association.
20. The Electrical Contractors' Association.
21. The All India Manufacturers' Organisation, Bombay.
22. The Indian Council of Foreign Trade.
23. The Indian Merchants Chamber, Bombay.
24. The Engineering Association of India, Bombay.
25. The Builders Association of India, Bombay.

APPENDIX II

MINISTRY OF HOME AFFAIRS

Dated 8th August 1955

MEASURES FOR DEALING WITH CORRUPTION IN PUBLIC SERVICES—CREATION OF THE ADMINISTRATIVE VIGILANCE ORGANISATION

The problem of corruption in the Public Services has been very widely discussed in recent years. The causes have been examined and measures for fighting the evil recommended by many committees and authorities. All the thinking has been done and some steps taken, but the results achieved so far cannot be regarded as fully satisfactory. This is because the Central Government is an unwieldy machine functioning through numerous departments and agencies spread over a vast area and employing hundreds of thousands of persons in all grades and types of posts. The battle has to be waged on many sectors and in a variety of ways. One of the main reasons for its comparative failure is the fact that no centralised drive, direction and coordination has hitherto been provided. It is necessary, therefore, to create an agency for this purpose At the same time, it must be clearly recognised that each Ministry and Department is responsible, within its own sphere, to do everything possible to prevent and punish corruption or malpractices. The main effort and initiative must, therefore, come from *within* each Ministry and Department. The task of the central agency will be to coordinate the efforts of the Ministries and Departments and to provide direction, drive and assistance wherever needed.

2. The Home Minister accordingly proposes that each Ministry should immediately nominate an officer, of at least Deputy Secretary's status, to be the Vigilance Officer in that Ministry, who, functioning under the direct control and guidance of the Secretary, will concentrate on this task. He will be expected to pay attention not only to the Ministry itself but also to its attached and subordinate offices. To coordinate the work of the Vigilance Officers and to furnish the required drive and direction, a central agency to be called the Administrative Vigilance Division should be created in the Ministry of Home Affairs with a Director at its head and adequate staff to assist him. Subject to the overall direction and control of the Home Secretary, the Director, Administrative Vigilance Division, will also supervise the working of the Special Police Establishment and see that investigations are conducted with vigour and speed. The distribution of functions will be as follows:—

A—Each Vigilance Officer will, with the assistance and guidance of his Secretary and under the leadership of the Director, Administrative Vigilance Division, be in charge of measures for the prevention, detection and punishment of corruption and other malpractices in his Ministry and its Attached and Subordinate Offices. In particular, he will see:

(1) that the existing organisation and procedures are examined with a view to eliminate or minimise factors which provide opportunities for corruption or malpractices,

(2) that a system of regular inspections and surprise visits is planned and enforced for detecting failures in quality or speed of work which would be indicative of the existence of corruption or malpractices, and

(3) that prompt action is initiated and pursued in all cases where reasonable grounds for suspicion of corruption or malpractices exist against any person.

B—Director, Administrative Vigilance Division will maintain close liaison with the Secretaries and the Vigilance Officers of the Ministries and Departments:

(a) to ensure the implementation of the measures mentioned in A above.

(b) to give guidance and assistance wherever needed to ensure that departmental enquiries are conducted with all possible speed consistent with due observance of procedural requirements, and

(c) to ensure that due speed and vigour are maintained in the conduct of investigation and prosecutions entrusted to the Special Police Establishment.

4. As the measures indicated above are closely linked up with the purposes and programme of the Organisation and Methods Division, it is proposed that, at least in the initial stages, the Director, Organisation and Methods Division, should also be in overall charge as Director of the Administrative Vigilance Division. Similarly, it may be possible or desirable in many Ministries for the same officer to combine the duties of Vigilance Officer and Organisation and Methods Officer. He will, of course, be given adequate staff to assist him. As the activities of the Administrative Vigilance Division and the Vigilance Officers in the Ministries get into full swing, the need for appointing whole-time officers to take charge of the work will be kept in view. The question whether it is necessary to strengthen the Special Police Establishment in number or quality will also be further considered in the light of experience gained by the working of the new arrangements.

APPENDIX III

No. 4/31/61-T

GOVERNMENT OF INDIA

New Delhi, the 1st April, 1963

RESOLUTION

The Government of India have had under consideration the establishment of a Central Bureau of Investigation for the investigation of crimes at present handled by the Delhi Special Police Establishment including specially important cases under the Defence of India Act and Rules particularly of hoarding, blackmarketing and profiteering in essential commodities, which may have repercussions and ramifications in several States; the collection of intelligence relating to certain types of crimes; participation in the work of the National Central Bureau connected with the International Criminal Police Organisation; the maintenance of crime statistics and dissemination of information relating to crime and criminals; the study of specialised crime of particular interest to the Government of India or crimes having all-India or inter-State ramifications or of particular importance from the social point of view; the conduct of police research; and the co-ordination of laws relating to crime. As a first step in that direction, the Government of India have decided to set up with effect from 1st April, 1963 a Central Bureau of Investigation at Delhi with the following six Divisions namely:—

(i) Investigation and Anti-Corruption Division (Delhi Special Police Establishment),

(ii) Technical Division,

(iii) Crime Records and Statistics Division,

(iv) Research Division,

(v) Legal and General Division,

(vi) Administration Division.

The Charter of functions of the abovesaid Divisions will be as given in the annexure. The assistance of the Central Bureau of Investigation will also be available to the State Police Forces on request for investigating and assisting in the investigation of inter-State crime and other difficult criminal cases.

(Sd.) V. Viswanathan,
Secretary to the Government of India.

IMMEDIATE

New Delhi, the 1st April, 1963.

No. 4/31/61-T

ORDER: Ordered that a copy of the Resolution be communicated to all State Governments/Union Territories Administrations; Director, Intelligence Bureau, Inspector-General, Special Police Establishment, Delhi; all Ministries/ Departments of the Government of India.

Ordered also that the Resolution be published in the Gazette of India for general information.

(Sd.) V. Viswanathan,
Secretary to the Government of India.

I. INVESTIGATION AND ANTI-CORRUPTION DIVISION
(Delhi Special Police Establishment)

(1) Cases in which public servants under the control of the Central Government are involved either by themselves or along with State Government servants and/or other persons.

(2) Cases in which the interests of the Central Government, or of any public sector project or undertaking, or any statutory corporation or body set up and financed by the Government of India are involved.

(3) Cases relating to breaches of Central Laws with the enforcement of which the Government of India is particularly concerned, *e.g.*

(a) breaches of Import and Export Control Orders,

(b) Serious breaches of Foreign Exchange Regulation Act,

(c) Passport frauds,

(d) cases under the Official Secrets Act pertaining to the affairs of the Central Government,

(e) cases of certain specified categories under the Defence of India Act or Rules with which the Central Government is particularly concerned.

(4) Serious cases of cheating or fraud relating to the Railways, or Posts & Telegraphs Department, particularly those involving professional criminals operating in several States.

(5) Crime on the High Seas.

(6) Crime on the Airlines.

(7) Important and serious cases in Union Territories particularly those by professional criminals.

(8) Serious cases of fraud, cheating and embezzlement relating to Public Joint Stock Companies.

(9) Other cases of a serious nature, when committed by organised gangs or professional criminals, or cases having ramifications in several States including Union Territories, serious cases of spurious drugs, important cases of kidnapping of children by professional inter-State gangs, etc. These cases will be taken up only at the request of or with the concurrence of the State Governments/Union Territories Administrations concerned.

(10) Collection of intelligence about corruption in the public services and the projects and undertakings in the public sector.

(11) Prosecution of cases investigated by this Division.

(12) Presentation of cases before Enquiry Officers in which departmental proceedings are instituted on the recommendation of this Division.

II. TECHNICAL DIVISION

(1) Technical assistance in investigation of cases involving accounts.

(2) Specialised assistance in cases involving Railway and Postal accounts.

(3) Assistance in cases involving assessment of Income-tax, Estate Duty etc.

(4) Examination of accounts and assets etc. in cases relating to allegations of disproportionate assets.

(5) Examination of cases investigated by the Bureau which have an Income-tax aspect, and communication of information with a view to enabling the Income-tax Department to recover the evaded tax.

III. CRIME RECORDS & STATISTICS DIVISION

(1) Maintenance of all-India Statistics of crime.

(2) Study of all-India trends in thefts and losses, and recoveries of fire-arms and ammunition, and note-forgery and counterfeit coining.

(3) Collection and dissemination of information about important inter-State criminals.

(4) Preparation and circulation of reports and reviews relating to crime in India.

(5) Participation in the work of the I.C.P.O., N.C.B., U.N.O. Reporter for Crime.

IV. RESEARCH DIVISION

(1) Analysis and study of specialised crimes and of problems of a general nature affecting the Police, *e.g.*

(i) trends and causes of serious crimes in different areas,

(ii) preventive measures, their effectiveness and relationship with crime,

(iii) improvement in methods of investigation, utility and results of introducing scientific aids and equipment,

(iv) inadequacy of laws; coordination of laws relating to crime in various States,

(v) criminal gangs operating in more than one State—wandering gangs —Ex-criminal Tribes—habitual offenders,

(vi) crime amongst the Tribal people,

(vii) inter-State note-forgery and counter-feiting,

(viii) social factors in crime,

(ix) industrialisation and crime,

(x) juvenile delinquency,

(xi) kidnapping of women and children.

(2) Participation in the work of the Central Forensic Science Advisory Committee and the Central Medico Legal Advisory Committee.

V. LEGAL AND GENERAL DIVISION

(A) LEGAL SECTION

(1) Legal advice in cases investigated by the investigation and Anti-corruption Division,

(2) Conducting prosecution in important cases.

(3) Review of judicial decisions relating to criminal law and procedure for publication in the C.B.I. Gazette.

(4) Compilation and circulation of Law Digest.

(5) Inadequacy of and amendments to laws.

(6) Coordination of laws relating to crime in various States.

(B) GENERAL SECTION

(1) Matters relating to organisation, policy and procedure

(2) Inter-State Conferences relating to crime and anti-corruption work.

(3) Appreciation reports regarding modes of corruption in various Government Departments and Public Undertakings.

(4) Correspondence with Ministries and States on general questions relating to policy, procedure, etc.

(5) Training Courses in anti-corruption work.

(6) C.B.I. Gazette.

(7) Photographic section.

VI. ADMINISTRATION DIVISION

All establishment and accounts matters.

APPENDIX—IV

[Published in the Gazette of India Part II Section 3(i) dated the 23rd February, 1963]

No. 25/12/62-AVD-I

GOVERNMENT OF INDIA

Ministry of Home Affairs

New Delhi-11, the 18th February, 1963

NOTIFICATION

G.S.R. 305.—In exercise of the powers conferred by section 3 of the Delhi Special Police Establishment Act, 1946 (XXV of 1946), and in supersession of the notification of the Government of India in the Ministry of Home Affairs No. 7/5/55-AVD dated the 6th November, 1956, as amended from time to time, the Central Government hereby specifies the following offences and classes of offences for the purpose of the said section, namely:—

(a) Offences punishable under sections 161, 162, 163, 164, 165, 165A, 166, 167, 168, 169, 182, 193, 197, 198, 201, 204, 211, 218, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 263A, 379, 380, 381, 382, 384, 385, 386, 387, 388, 389, 403, 406, 407, 408, 409, 411, 412, 413, 414, 417, 418, 419, 420, 465, 466, 467, 468, 471, 472, 473, 474, 475, 476, 477A, 489A, 489B, 489C, 489D and 489E of the Indian Penal Code, 1860 (XLV of 1860);

(b) Offences punishable under the Prevention of Corruption Act, 1947 (II of 1947);

(c) Offences punishable under the Defence of India Act 1962 and the Defence of India Rules framed thereunder;

(d) Offences punishable under the Imports and Exports (Control) Act, 1947 (XVIII of 1947);

(e) Offences punishable under the Foreign Exchange Regulation Act, 1947 (VII of 1947);

(f) Offences punishable under sections 51, 52, 55 and 56 of the Indian Post Office Act, 1898 (VI of 1898);

(g) Offences punishable under sections 63, 68, 116, 538, 539, 540, 541, 542, 628, 629 and 630 of the Companies Act, 1956 (I of 1956);

(h) Offences punishable under sections 104 and 105 of the Insurance Act 1938 (IV of 1938);

(i) Offences punishable under the Indian Official Secrets Act, 1923 (XIX of 1923);

(j) Offences punishable under sections 7 and 8 of the Essential Commodities Act, 1955 (X of 1955) and conspiracies in relation thereto or in connection therewith;

(k) Offences punishable under section 24(I)(iii) of the Industries (Development and Regulation) Act, 1951 (LXV of 1951) and conspiracies in relation thereto or in connection therewith;

(l) Offences punishable under items 26, 72, 74. 75, 76, 76A, 76B, 77, 78. 79. 80 and 81 of the Schedule to section 167 of the Sea Customs Act, 1878 (VIII of 1878);

(m) Offences punishable under sections 5 and 7 of the Land Customs Act, 1924 (XIX of 1924);

(n) Offences punishable under the Indian Wireless Telegraphy Act, 1933 (XVII of 1933);

(o) Offences punishable under the Telegraph Wires (Unlawful Possession) Act, 1950 (LXXIV of 1950);

(p) Offences punishable under the Railway Stores (Unlawful Possession) Act, 1955 (LI of 1955);

(q) Offences punishable under section 27 the Indian Telegraph Act, 1885 (XIII of 1885);

(r) attempts, abetments and conspiracies in relation to or in connection with the offences mentioned in clauses (a) to (i); and clauses (1) to (q) and any other offences committed in the course of the same transaction arising out of the same facts.

APPENDIX—V

Arrangements Existing at present for obtaining Assistance & Expert Opinion

Sl. No.	Name of the Unit or Organisation	Type of work undertaken
1.	Chief Technical Examiner, Ministry of Works & Housing, New Delhi.	(i) Technical examination of Engineering works, construction etc. (ii) Valuation of buildings and other works
2.	C. P. W. D.	Valuation of buildings and other works.
3.	Railway Engineering Department	Technical examination of Railway Engineering Works, Constructions etc.
4.	Chief Technical Examiner, Army Headquarters, New Delhi.	Technical examination of Military Engineering Works, Constructions etc.
5.	Forest Research Institute, Dehra Dun	Technical examination and expert advice on the correct identity of timber, on the testing and examining timber for decay etc.
6.	Govt. Test House, Alipore, Calcutta.	Extensive testing of various articles on commercial scale and issuing certificates on all articles tested in the House.
7.	G.E.Q.D., Simla.	Technical examination of hand-writing and questioned documents.
8.	India Security Press, Nasik. . .	Technical examination of revenuestamps, forged currency notes, etc.
9.	Costs Accounts Branch.	Technical examination and advice on various accounting matters, costs of production. valuation of industrial establishments system of accounting in Govt. industrial organisations, etc .
10.	Central Glass and Ceramic Research Institute, P. O. Jadavpur, Calcutta.	Technical assistance and advice in regard to testing of glass, ceramics, etc.
11.	Central Drug Research Institute, Lucknow.	Testing of drugs as per standards laid down in recognised Pharmacopoeia. (Ayurvedic and Homeopathic drugs are not tested.)
12.	Geological Survey of India, Calcutta.	Identification, examination and testing of sands, powers, minerals, rocks, clays, gems, rare-earth, coal, water, gas, etc.
13.	The India Govt. Mint, Bombay.	Analysis and testing of coins as well as metals.
14.	Central Leather Research Institute, Madras.	Qualitative and quantitative analysis of leathers, tanning materials and leather auxiliaries.
15.	Central Building Research Institute, Roorkee.	Testing of bricks, cement, mortars, stone paints, soil, water etc.
16.	National Metallurgical Laboratory, Jamshedpur.	Qualitative examination from metallurgical point of view of machinery, tools, implements, electrical goods, installations, stores etc.
17.	National Sugar Institute, Nagpur.	Analysis of samples of sugar and other sugar house products as also various chemicals and materials used in sugar industry.

18. D.G.S. & D, New Delhi. . .	Technical assistance in regard to assessment of quality, standard, make, etc. of machinery, tools, implements, electrical goods, installations and stores.
19. E.M.E. Workshops, (Army) . .	Technical opinion on and assessment regarding motor vehicles and motor parts.
20. Central Food Laboratory, Calcutta. .	Analysis of samples of food for the purpose and submission of a Certificate of analysis.
21. Director General, Food (Directorate of Storage and Inspections), New Delhi.	Quantitative and qualitative analysis of foodgrains, fodder, cereals, oils etc.
22. Regional Directors of Food, Ministry of Food & Agriculture.	Do.
23. Marketing Officers in the Directorate of Agricultural Marketing, Nagpur.	Do.
24. Central Forensic Science Laboratory, Calcutta.	Physical and chemical examination of specimens of various types.

APPENDIX—VI

Statement showing the juridiction of the various branches of the Delhi Special Police Establishment i.e. the Investigation and Anti-Corruption Division of the Central Bureau of Investigation.

Sl. No.	Name of the Branch	Jurisdiction
1	2	3
1	Central Investigating Agency, New Delhi.	Throughout India.
2	Fraud Squad, New Delhi. . .	Throughout India.
3	Delhi	Delhi (Union Territory).
4	Ambala.	States of Punjab and Jammu and Kashmir and Union Territory of Himachal Pradesh.
5	Jaipur	State of Rajasthan.
6	Lucknow	State of Uttar Pradesh.
7	Jabalpur	State of Madhya Pradesh.
8	Madras	States of Madras and Kerala and Laccadive, Minicoy & Amindive Islands and also Pondicherry.
9	Bangalore	State of Mysore.
10	Hyderabad	State of Andhra Pradesh.
11	Bombay	State of Maharashtra and also Goa, Daman & Diu.
12	Ahmedabad	State of Gujarat and also Dadra and Nagar Haveli.
13	Calcutta	State of West Bengal and Andaman and Nicobar Islands.
14	Shillong	State of Assam and Union Territories of Manipur and Tripura, Nagaland and N.E.F.A.
15	Patna	State of Bihar.
16	Bhubaneshwar/Cuttack . . .	State of Orissa.

APPENDIX—VII

Statement showing the particulars of important Public Projects and Undertakings

Sl. No.	Name of the Project or under-taking	Location of the undertaking	Location of its Head Office	Location of the S.P.E. Branch having jurisdiction at present	Distance of the under-taking from the S.P.E. Branch
1	Hindustan Steel Limited .	Ranchi	Ranchi	Patna	210 miles
2	Durgapur Steel Project .	Durgapur	Ranchi	Calcutta	110 miles
3	Hindustan Steel Limited .	Rourkela	Ranchi	Puri	360 miles
4	Bhilai Steel Project . .	Bhilai	Ranchi	Jabalpur	233 miles
5	Alloy Steel Project . .	Durgapur	Durgapur	Calcutta	110 miles
6	Heavy Engineering Corporation	Ranchi	Ranchi	Patna	210 miles
7	Heavy Engineering Corporation	Durgapur	Ranchi	Calcutta	110 miles
8	National Coal Development Corporation	Ranchi	Ranchi	Patna	210 miles
9	National Coal Development Corporation . . .	Talcher	Ranchi	Puri	125 miles
10	National Coal Development Corporation Ltd. (Collieries) . . .	Korba	Ranchi	Jabalpur	335 miles
11	Kargali, Sawang, Jarandi, Kathara Collieries of N.C.D.C. . . .	Within 10 miles from Bokaro	Ranchi	Patna	184 miles
12	Seyal D, Religara and Giddi, Collieries of N.C.D.C. .	Within 10 miles from Bhurkunda	Ranchi	Patna	199 miles
13	Sindri Fertilizers & Chemicals (P) Limited. . .	Sindri	Sindri	Patna	230 miles
14	Fertilizer Corporation of India	Rourkela	Rourkela	Puri	340 miles
15	Hindustan Cables Limited.	Rupnarayanpur	Calcutta	Calcutta	145 miles
16	National Mineral Development Corporation . .	Kiriburu	Kiriburu	Puri	250 miles
17	Damodar Valley Corporation	Hazaribagh	Calcutta	Patna	150 miles
18	Damodar Valley Corporation	Dhanbad	Calcutta	Patna	212 miles
19	Damodar Valley Corporation	Durgapur	Calcutta	Calcutta	110 miles.

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